





# Institu



tions or princypal  
groundes of the lawes and  
statutes of Englande; new-  
ly and very truly correct-  
ed and amended with  
many newe and  
goodlye,  
additions, verpe profy-  
table for all sortes of  
people to knowe,  
lately augment-  
ed and im-  
proved.



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Rec. July 24, 1906



# The prologe of the aucthour to the reader.



**D**emosthenesse the re-  
nowned Oratour desyneth lawe  
in this wyse. The lawe (sayeth  
hee) is the thyng that all menne  
oughte to obeye for manye skyl-  
les but in specially because lawe  
is the inuention, and also the gyfte of God, the  
decrees of prudent menne, the chastysmente of  
wylfull and unwylfull, offences, and synallye  
the common suretye of a Realme, wherby it  
becommeth all menne to liue, whych be contrar-  
saunte in the same. Cyprius also, an ex-  
cellent philosopher, thus begynneth his booke  
of lawes.

The lawe is kyng of all, as well dyuine as  
humayne affayres, the p[re]sident and comptroller  
of thynges honest, and dishonest, the Prynce,  
Capitayne and ruler, of the iuste, and iniuste, &  
it is of Ciuile creatours, as well the commaun-  
der, what they oughte to do, as the forhydder,  
what they oughte not to doo. These auntycke  
sayinges of wyse menne, assuredly oughte muche  
to inflame vs to the knowledg of those thynges  
withouth whych we shall be esteemed no men, but  
as brute and sauage beastes. Lette vs not com-  
mytte, that it be sayde of vs Englethemen, as  
it was ones sayde of the men of Athens, that  
is, that wee make verye goodly and profytable  
lawes, but we vse them not. Certaynly there can  
bee no greater reproche to a common weale then

A. ii.

thys

**The preface.**

**This.** One lesson I would we learned of the aunciente lawyer Romayne named Celsus, and that is this. The knowledge of lawes is not to bere awaye the wordes, but the pithe and power of theyn. This he wrote bycause there bee manye whiche when good and holsome lawes bee made seeke not to see them executed, and obserued, but rather howe to defraude them and to haue theyn vnexecuted, whiche kynde of people after the sentence of mooste auncient lawmakers bee no lesse worthy of reprehensyon then they whiche do expressly agaynst the lawe. Nowe, they do (say they) agaynste the lawe whiche do the thyng, that the lawe forbyddeth. And they defraude a lawe or statute, whiche the wordes of the lawe saied,

do circumuent the meanynge and sentence of it. Let vs then so reade the lawes that we may beare awaye the sentence and mynde of them, and so fulfyll and obserue the lawes, that it may appere that they were not made in vayne.

**Thus**

doynge we shall please God, we shall be obedient subiectes to our prince, and especially we shall seeke our owne weale and sauetye.



The law is the dyrection and mī-  
nistratyon of Justyce. And ju-  
styce is (as the Emperour Jus-  
tinian sayeth in his Instituti-  
ons) a constante and permanent  
wyll to render vnto every person  
his ryght and dutye.

**T**he learnynge of prudence of lawe, is a  
knowledge of deure & humaine thinges, a science  
and perfyte notyce of equitye and iniquitye, of  
ryght and wronge.

**N**owe for asmuche as a greate porcyon of  
the prudence of science of the lawes of this re-  
alm of England consisteth in the perfyte know-  
ledge of estates, whiche men haue in landes and  
tenementes: we shall fynde as compendiouslye,  
and as synply and playnly as we can, treat of  
what of estates.

**D**ivisiō of estates.



**Y**e shall therfore understande,  
that whosoever hath any estate in  
landes or tenementes, ether he  
hath in the same onely a chattell,  
or a holdey or inherytaunce; yf  
hee hath an estate but for terme  
of certayne yeares, (or at his landelordes wyll,  
so it is called a chattell, yf for terme of his lyfe,  
or of another mannes lyfe, it is called a freholde.  
And yf he hath to hym and to his heyyes in fee  
simple or in taylor then he hath a state of inher-  
ytaunce.

Chattell,

Freholde

Inhery-  
taunce.

**T**enant for terme of yeares.

§. iii.

Tenant

**Tenaunt for yeres.**

**T**enaunt for terme of yeres, is he to whiche landes or tenementes he letteth for terme of certayne yeres, as is agreed betwene the landlorde and the tenaunt. And when the person to whom suche lease is made dothe entre by force of the sayde lease and is in possession of the same: then he is called tenaunt for terme of yeres.

**Rente  
serued.**

And here ye shall note, that yf the lessour, that made the lease hath reserved vnto hym a yeresly rent vpon the sayde lease (as it is accustomedly vsed to be done) yf the rent be behynde vnpaide, it shalbe in his election eyther to entre and distrayne for the rent, or to brynge an action of Dette agaynst hym at the lawe for the arrearages of the same. But in this case it is requysite, that the lessour were sealed of the landes or tenementes at the tyme of the makinge of the lease for otherwyle it shalbe a good plee in the action of Dette for the tenaunt to saye, that the lessour had nothyng in the lande and tenement at the tyme of the lease made: excepte the lease were made by dede indented, for then the plee shall not lye in the tenauntes mouth to plede.

**Action of  
Dette.**

**A good  
plee.**

And it is to be knowne, that in a lease for terme of yeres, whether it be by dede or wythout dede there nedeth no lpyuerpe of season to be made to the lease, but he may entre when he wylle by vertue of this lease, without anye further ceremonye of the lawe.

**Lpyuerpe  
of season  
nedeth not  
in lease  
for terme  
of yeres.**

Also yf a man letteth landes for terme of yeres, though the lessour chaunceth to dye before the lease doth entre, yet he may entre wel ynough. Otherwyle it is where lpyuerpe of season is to be made, as in free holdes and inheritaunce.

Tenaunt at wyll.

To.iii.

Waste.

Also if the tenaunt for yeare dothe waste, the lord may byng an accyon of waste agaynst him and shall recouer the place wasted, and hys grebe damages.

Also if a lease for yeares be made of.ii. seuerall thynges and after the one is recovered the lesse shall holde the other, and the rent or terme shall be appoynted. 11.12.18.

Also if the tenaunte for yeares graunteth a greater estate in the lande, than he hath hym selfe, wherby he conueyeth the fee simple to hym selfe he shall forsayte his lease or terme.

for say-  
ture.

Tenaunt at wyll.

Tenaunt at wyll, is he to whome landes or tenementes be lesed to haue and hold the same at the wyll of the lessour. And

in this case the lessour may put out his tenaunte at what time hym lysteth.

But yet neuerthelesse, if the tenaunt haue sowed the groundes with corne, in this case if the lessour wyll entre and put oute hys tenaunte before harveste, the lawe wyll geue hym free comynge and aduise to reape and cary hys corne awaye, without anye punishmente or damages to be sustayned for hys so doyng bycause he knewe not at what tyme the lessour wolde entre.

But otherwyse it is of the tenaunte for certayne yeares, for if he soweth the grounde, and the terme of the lease be come out and expyred before the corne be ripe, in this case the lessour or he in the reuercion may entre and take the corne, bycause it was the coly of the tenaunte to sowe the grounde, knowyng the ende of hys terme.

In lyke wyse tenaunt at wyll shall haue free

3.iii.

com-

Tenaunt  
at wyll

### Tenant at will

commynge and goynge after the tyme of the les-  
sours entrie, to carye awaye hys household stuffe  
and goodes for a reasonable space.

**Distres**  
or els ac-  
tion of  
Dette.

**¶** The Hall also vnderstande, that he that maketh  
a lease at will, may reserve an annuall or yerely  
rent in whiche case yf the rent be behynde,  
he may entrie very well and distrayne the goodes  
and cattels of the tenant, or at hys election he  
may bringe an action of Dettre agaynst hym.

**Waste.**

**¶** Also it is to be knowne, that tenant at will  
of a lease of a tenaunt is not bounde by the ordre  
of the lawe to sustayne and repayre the houses  
that be decayed and ruynouse, as ys the tenants  
for yeaeres, and therfore no action of Waste  
lyeth agaynst hym. yet yf he do wylfull waste  
as yf he plucketh downe the houses, or cutteth  
downe the trees: ys hys tene thought by the ju-  
ges of the lawe, that the lessour may bringe an  
action of Trespas agaynst hym and shall reco-  
uer hys losses thereby sustayned.

**Trespas**

**¶** And yf suche a tenant dye and hys heyre en-  
tre, in that case the lessour may haue an action  
of Trespas agaynst the heyre.

**Tenant by coppe of court rolle.**

**¶** There is an other kynde of tenaunt at will  
whiche is called tenaunt by coppe of  
court rolles. And this is when a man is  
seised of a maner withyn whiche, it hath bene  
used tyme out of mynde, that the maneres  
withyn the boundes and petyng of the said ma-  
ner haue gossen landes and tenementes to them  
and to theire heires in fee simple, fee taylor, by  
fat tene of lyfe, at the will of the lord accordyng  
to the custome of the maner. And such a  
tenaunt,





Of countre Rolle.

Quem dñi regis assise mox in antecelloria ad eam  
 mme legi. vel. ac. plegi de persequendo. f. 6. ac.  
 ¶ Nowe although some such tenants have  
 an inherytaunce accordinge to the custome of the  
 maner, yet in verie dede they are but tenants  
 at the wylle of the lord. For as some men thinke  
 yf the lord wyl expell them and put them forth  
 they have no remedye at all, but to sue vnto  
 their lord by waye of petycon, despyngs hym  
 to be good and gracious lord vnto them. For  
 yf they myghte haue anye remedye by the lawe  
 then shulde they not be called (save they) tenants  
 at the wylle of the lord after the custome of  
 the maner. But other men of no lesse learninge  
 and prudence haue bene of contrarye sentence  
 as lord Wyke chiefe iustice, in the tyme of King  
 Edward the. iii. whose oppynion was alwayes  
 that yf such tenants by the custome (payenge  
 hys seruyces) be elected and put forth by hys  
 lord withoute cause reasonable, he may verie  
 wel hyng and maintaine an action of Trespas  
 againste hys lord at the common lawe as apper  
 eth termino Hillarii an. xi. C. iii. also lord  
 Danby chiefe Iustice in lyhe wyse, was of the  
 same iugement: as appeareth termino Mich. 2. an.  
 C. iii. where he sayeth, that the tenant by  
 the custome is as well inherytable to haue hys  
 lande after the custome as is he that hath a  
 free holde at the common lawe, but the deter  
 mination of this question I remit to my great  
 masters, which can solue the knottes and eny  
 mures of the lawe. *termino Mich. 2. an. C. iii.*  
 ¶ Forasmuche as yet styll of this matter. *Termin.*  
 ubi certant et adhuc sub iudice lis est. *an. 2. C. iii.*  
 ¶ Also ye shall vnderstande, that the wylle of  
 some

Action of  
 trespass.

*Causidici Contract of adhue sub iudice lis est*



Some manours is, when the tenant will surrender his lande to the use of another: that hee shall take a wand or rodde in his hande, and deliver it to the steward of the court, and the steward shall deliver the same wand in name of/ seyson to hym that shall take the lande: and such a tenant is called tennaunte by the verge. Wyuers other customes there be of surrendring of coppe holde landes, whiche here for bryevelytie I wyll omitt. And soasmuche as tennauntes by custome of the Manour, have by the course of the common lawe no freeholde: therfore they be called tennauntes of base tenure.

Base  
tenure.

Also if such a tennaunt letteth to ferme his coppe holde land for longer tyme then a twelfe moneth and a day without the lordes licence it is a forfayture of his lande to the lord.

And knowe ye that yf this tennaunt sell anye timber, that groweth vppon the lande but ones yf for the reparation of the same, this is waste and a forfayture of his coppe holde.

Whereto have I treated of the fyfthe member of our deuytyon, that is to wytte, of chattelles for as I sayde, all leases for terme of yeres, and at wyll be accompted in the lawe but as chattels and be compyled under that name saue that they be called cattelles reallles, where as

hyne, oxen, horses, money, plate, cornes, and suche lyke be cal- led chattell personalles.

Chattelle  
real and  
personel

Wyll procede to the explanacion of the seconde membre, that is to wytte, of free holdes.

Free

**Lehold**

**F**irst holdes of franchise, covenanted a man maye have in sundrye wyse, for either he is leased for terme of his owne lyfe, or for terme of another mans lyfe. If he be leased for terme of his owne lyfe, whether he hath goten such estate by waye of purchase, or elles the lawe hath impleied hym therunto. I call it by purchase, wherby hee cometh unto it by his owne bargayning and procurement, or by gift of his frende, and I call it by the operation and impleyinge of the lawe, when a manne marryeth a woman that is an inheritee, and hatht the issue by her, and shee dyeth, nowe shall he have the landes duringe hys lyfe, by the course of the lawe, and shalbe called tenant by the curtesy of Englande.

**Tenant by the curtesy.**

**I**n lykewyse, if a man be leased in fee simple, or fee taylor of landes, and tokeith a wyfe, and hee dyeth, the lawe geueth unto the wyfe the thyrde parte of her husbundes landes, for terme of lyfe, and shee shalbe called tenant in dower.

**Tenant in dower**

**T**enant for terme of lyfe, is he that holdeth landes or tenementes for terme of hys owne lyfe, or for terme of anothers lyfe.

Howbeit the most frequen, and common manner of leasing, is to call hym that hath estate for terme of hys owne lyfe, tenant for life, and hym that hath estate for terme of anothers lyfe, tenant for terme daunter, whiche is to saye the tenant for terme of anothers lyfe.

**Tenant for life**

**Y**ee shall note, that lyke as hee that maketh the lease is called the lessor, and hee to whome the

Tenant for terme of lyfe. To wit.  
The lease is made; is called the lessee; so he that  
maketh a lease is called the lessour; and he  
to whom the lease is made, the lessee.

Also if tenant for terme of lyfe, or tenants  
for terme of an other mans lyfe do waste, the  
lessour or he in the reuerſe shall mayntaine very  
well an action of Waste agaynst hym and shall  
by the same recouer treble damages.

Waste.

Finally ye shall vnderstande that by an acte  
of Parlyament made in the xxvi. yere of our  
Soverayn lordes that now is, kynge Henry the  
eighth, it is enacted that no free holde, nor estate  
of inheritance shall passe nor take effect by rea-  
son of any bargayne and sale, except that same  
be made by wytyng indented, sealed and en-  
rolled, in one of the kynges maiesties courttes  
at Westm., or els wythin the same county where  
the lande doth lye, before the custon Romolour,  
and the Justices of peace and the clerke of the  
peace of the same countie, or two of them at  
least, of whiche the sayde clerke shalbe one; and  
that suche inrollemente be made wythin six mo-  
nethes after the date of suche wytyng. And  
for the inrollemente of euerye suche wytyng,  
where the lande comprysed therein is not aboue  
the yerely value of tentye shyllynges, they shall  
take two shyllynges, that is, twelue pence to the  
Justices, and .xii. d. to the clerke. And if the  
lande be aboue the yerely value of .xl. s. then they  
shall take .v. s. that is .ii. s. and .vi. d. to the Ju-  
stices and .ii. s. and .vi. d. to the clerke, whiche  
shall inrolle and ingrosse sufficiente in parche-  
mente such dedes and wytynges, and at euerye  
yere ende he shall deliuer the same to the  
custon Romolour of the same countie, to be kept

An. xxvi.  
H. viii.

m<sup>3</sup>

**Tenant by the curtesye.**  
in his custodie amonge other recordes of þe same  
countie, so that the parties resourcyng the same  
maye see them. And wherby, that this extende not  
to any tenementes or hereditamentes lying within  
any cite or towne corporate wherin the Shaires,  
Recordes, or other officers haue authorite, but  
haue lawfully vled to enrolle any euidences or  
writynges within their precincts.

**Tenant by the curtesye.**  
**T**enant by the curtesye of England is  
he that hath married a wyfe inheryted, and  
hath had issue by her, and she is deade, in  
this case the lawe of England permitteyth  
and suffereth the husband of such wyfe to receyve  
and kepe still all his wyfes lande that she hadde  
either in fee simple, or fee taylor, so longe as he  
lyneth. And this is by the curtesye, and vrbancie  
of Englands, for this thyng is vled in none of  
ther countrey nor regyon.  
But in this case it is requyred that the chyld  
be vntill, that is to saye, be borne and brought  
forth into this worlde aliv, & therfore the com-  
mon saying is, and hath ben, that onles þe chyld  
be herde crye, the father shall not be tenant by  
the curtesye, for the onely proue and argument  
of lyfe in an infante borne is the crye & cryng.  
And ye shall furthermore vnderstande, that onles  
the husbände bee in actual and reall possession  
of his wyfes landes, and seyled of them in his  
wyght, he shall not bee tenant by the curtesye  
after her death. And therefore of landes descend-  
ing to a mannes wyfe, so that she is tenant in the  
lawe, and to every mans action, pet of the hus-  
bände haue not made an actual entrie during  
courtur

**T**enaunt by the curtesye. fol. viij.  
to her tithre and matrymony betwene them, he shal  
not bee tenaunte by curtesye, for it shall be repur-  
sed and iudged his foly and negligencye that he  
woulde not entre in her life tyme.

**O**therwise it is of aduoucons, rentes, commons  
and suchie other thynges, whiche forthwith when  
they descende, be in a man or woman without a-  
ny entre or further ceremony of lawe.

**N**ote that if tenaunte by the curtesye of Eng-  
land wpll suffer or make any waste in the landes  
or tenementes that he so holdeth, he is punisha-  
ble therfore, by action of wast brought by him in  
the reuerlyon.

**Waste.**

**A**lso it is to be knowen, that of thynges that  
bene in suspence, a man shall not be tenaunt by  
curtesye, and therfore yf a man be tenaunt in fee  
simple of certeyne lande, and doeth entermarry  
with a woman that is the seignoresse or ladye  
of the same and hath yssue by her, and she dyeth,  
yet shall he not be tenaunt by the curtesye of the  
lordeshippe or seignorie, by cause hym selfe is te-  
naunt of the lande, and therfore the lordeshippe  
is suspended for the tyme, for a man can not bee  
bothe lord and tenaunt of one thyng, but if he  
had not bene tenaunt of the land he shoulde haue  
had the lordeshipp after the death of his wife by  
the curtesye of Englande very well.

**A**lso note that of a ryghte onely a man shall  
not be tenaunt by the curtesye, as yf a woman  
sole leased in fee of lande or tenementes, be dis-  
seyled and after take a husbande, and they haue  
yssue, and shee dye before any reentre made, the  
husbande shall not be tenaunt by the curtesye.

**Note.**

**N**ote further that of a reuerlyon, a man shall  
not be tenaunte by the curtesye, as yf a woman

**Note.**

sole

**Tenant in dower.**  
sole seised of lande in fee, make a lease to B. for  
 terme of lyfe. after taketh a husbnde and they  
 have yssue and she dye, leaving the lease for terme  
 of lyfe, the husbnde shall not be tenant by the  
 curtesye.

**Of tenant in dower.**

**Dower at  
the com-  
mon lawe**

**Dower by  
custome.**

**Tenant  
by the  
curtesye.**

**T**enant in dower, is shee that hath bene  
 married to an husband, that was duringe  
 the matrimony, betwene them sealed of  
 landes or tenementes in fee simple, in fee  
 taylor whiche is nowe dead, and shee seised of the  
 thirde parte of her husbandes lande, landes, for  
 terme of her lyfe. For by the common lawe of the  
 lande yf the husband be at any tyme duringe the  
 coverture seised lawfully whether it be by purchase  
 or by descent, either in fee, or in taylor, and  
 dye, his wyfe ought to be endowed by the courtse  
 of the common lawe of the thirde parte. And in  
 some places by an auncient custome she shall be  
 endowed of the moortie. yea and though the husb  
 bande were neuer seised actually duringe the cov  
 erture, yet yf the landes be cast upon him by the  
 lawe, so that the lawe calleth hym tenant as in  
 every mannes action it sufficeth the woman to de  
 maunde her dower, for it were unreasonable that  
 the negligence and slackenesse of enteringe of the  
 husbande, shulde hurte the wyfes title.

**O**therwise it is, as is sayd before, of tenants  
 by the curtesye, for yf landes descended to a good  
 man covert and the husbande for slothfulnessse  
 or negligence doeth not entere in his wyfes lyfe  
 he shall not be tenant by the curtesye, for by all  
 lawes the wyfe oweth obedience and subjection

to her husbande and therefore she can not compell  
him to enter, but taken landes descended to the  
heire, the husbande only hath power to enter at  
his pleasure.

¶ And ye shall understande, that onlesse the wife  
be passed the age of nine yeares at the time of her  
husbandes death, shee shall not be entituled by  
the common lawe.

¶ But it is to be knowne that a woman maye  
by diverse wayes eschape, and mainteine her selfe  
of her dower: as if she commit any crime, for  
which she is attaind by treason, murder, or felo-  
ny, shee get in this case no power, notwithstanding  
being she hath obtained her pardon.

¶ Also if after the death of her husbande shee  
voluntarily for feare of loss, of the same landes  
whereof she is inheritor, shee loseth her dower  
of the same. Whosoever of the departing from her  
husbande, and liveth in adultery with another  
man, and is not reconciled againe to her hus-  
band without correction of a ecclesiasticall power  
shee loseth her dower. After her husbandes death  
shee shall be also barred of her dower if shee will  
withdrawe from the house, the church, and con-  
vency concerning that house whereof shee hath  
dower. But none other, save the house, can make  
void her dower for this cause.

¶ It oughte not to be presumed also of what  
kindes shee may mainteine dower, and of what  
things not. Of landes, meadowes, houses, and  
tenements, rent, service, or services, meadows  
or pasture, of villaines, of commons, ac-  
cords, of covenants, covenants, of profits, and other  
in or of the property of laym. shee is bounde.  
¶ And of commons, and other things appertaining to

I think  
that there  
no dower

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21. 11111

20. 1.

20. 2.



To vt. annuities, of bondages, of ransomes of ple-  
sure as of feruice of payment of tolls and tem-  
blable, the shall nat be endowed.

¶ There be yet two other bondes of dower the  
one is called dowment ex assensu patris, that is  
to saye, by the assent of the father, and the other  
is called dowment de la plus beale partie. That  
is to saye the sayest parte.

**Dowe-  
ment ex  
assensu  
patris.**

¶ Dowment ex assensu patris, is when the  
father is seised of landes in fee simple, and his  
sonne whiche is heire apparent, endowed by  
tote at the church doze, when he is espoused  
of partell of hys fathers landes with the assent  
of hys father in writinge, and payenge the same  
assent, vt in this case her husbande by the maye  
forth with the cure into the hande to assigne out  
to her without further assigninge of pices  
of lande, although the father of her sayde hus-  
bande be yet alive and in actual possession of  
the lande. But vt the lawe do, and take her to  
this endowment at the church doze, she can not  
have her dower also by the common lawe of the  
third parte of all her husbandes landes or any  
partell of them. howe so vt the well recte this  
assignement made vnder at the church doze  
and demaunde dower at the common lawe, she  
may so do herse well.

**Dow-  
ment ad  
hospitium  
ecclesie.**

¶ A man maye also endowe his wife in the  
time of the Quene, or the same landes, the  
whiche he hath in his full possession, and that  
dower is called dower ad hospitium ecclesie, that  
is to saye, at the church doze.

**Dow-  
ment de la  
plus beale  
partie.**

¶ Dowment De la plus beale, that is to saye  
dowment of the sayest parte shall be in this case  
when a man is seised of landes, whiche he holdeth  
of



of an other man by huyghtes seruyce, and of o-  
ther landes whych be of socage tenure, and hath  
issue, whych is within the age of xiiij. yeres and  
dye, and the lorde of whom the lande is holden  
by huyghtes seruyce entreath into the lade holden  
of him and the mother of the chylde entreath in-  
to the socage tenure as gardayne in socage. If  
in this case the woman will brynge a wyttie of  
dowre agaynst the lorde whiche is a gardayne in  
the lade, he may plede the special matter and  
the same dowre as a gardayne in socage hath. So  
much lande and thetyng may the court that  
the may be suffred to endowe her selfe of so  
much lande, as beynge in her owne custodie, as  
anymouth to the thyrde part of the hole lande.  
And then the iudgement shalbe, that the gar-  
dayne in the lade shal retaine the lande holden  
of him quyte from the woman duryng the non-  
age of the warde. After whiche iudgement and  
sentence given, she may go, and in presence of  
her neighbours, and endowe her selfe of the beste  
part of that whiche is in her custodie, amount-  
ing to the thyrde parte of the hole, and then is  
she called tenant in dowre de la plus beale.

Finally ye shall understande, that by a sta-  
tute made in the xxvii. yere of our moste dreade  
soveraygne lord the kynge Henrie the eighth it is  
enacted thus. Where by others personnes have esta-  
bles made to them and to theyr wyves, and to  
the heyres of the husbände, or to the husbände  
and wyfe, the heyres of theyr two bodies be-  
gotten by the heyres of one of theyr bodies as  
for terme of both or one of theyr lyves, or any  
other persons and theyr heyres to the use of  
the husbände and wyfe, or to the wyfe alone, for  
her

In. 27  
Henri. 8  
Capit. 1.

her coynure: in every such case the woman shall not be suffered to demand any dowrye of her husband or her husband's landes to whom she hath her coynure against any tenant of the land. And in case she hath no such coynure: then may she demand her dowrye after the course of the common lawe. Provided nevertheless yf such women be lawfully expelled from their coynures by any parte thereof without fraude or covyn: then shall they be endowed of the residue of the husband's landes for a dowrye as the landes that amounte unto, out of which they were so expelled and putte forth.

Provided also, that yf landes or tenements be devised to any woman after marriage for terme of lyfe or otherwise in coynure (except as by acte of parliament) and she wyfe over live her husbande in whose time the coynure was made: in this case the wyfe may retake y landes so appoynted unto her in coynure, and have her dowrye at the common lawe of such landes as her husbande was seised of, at any tyme during the coverture.

Also yf the husband committeth treason murder or felonye, for which he is attainted the wyfe shall not have her dowrye.

And note that yf the husbande enter into religion, and is professed, the heire shall enter into the land, but the wyfe getteth no dowrye til the husbande dyeth.

And likewise yf a man seised of lande taketh a wyfe that is alien borne and dyeth, shee shall not be endowed, excepte she be made Denizen by acte of parliament. And note that wher the wyfe bringeth a wyffe of dowrye and returns

# ¶ Division of Inheritance.

Fol. xi.

her copye of the said recoverie no damages, but where? Damages  
for his lands byed lasses of the landes recovered. ges.

## ¶ Division of inheritance.

**H**ere to have I spoken of freeholdes,  
nowe it remayneth to treat of inheri-  
tances, nor the inheritances, be no free  
holdes, for they bee freeholdes also, but  
of the other estates of whiche I have heretofore  
treated be onely freeholdes, and of no higher na-  
me where as a state of inheritance, although  
it be a freeholde in verbe, yet it is not to be cal-  
led by name, yth it is after more excellent and  
greater estate. But ye shall understande, that of  
inheritances some be of more ample and  
excellency then other some be as that inheritance  
whiche is pure simple, and without limitation  
of what heires, whiche kinde of inheritance is  
called fee simple. But when I make a limita-  
tion of what heires, then is it called fee simple  
of whiche also be two sortes, as hereafter more  
at large shall be declared. Nowe therefore the na-  
me of fee simple is set forth with our accust-  
omed compendiousnes,

fee simple  
ple.

## ¶ Of fee simple.

**F**ee simple is (as I sayde) the moste ample  
and large inheritance that can bee in this  
realme devised or recogitare, as the whiche  
man hath to hym and his heires simple  
without any further limitation, for whether they  
be of his owne body begotten or not, so that they  
bee of his name, and within the de-  
gree it sufficeth.

¶ And then, containe in fee simple is he that hath  
landes

**Of fee simple.** <sup>not in 16</sup>  
 landes or tenementes whether yt be by purchas  
 or by dyscent to hym and to his heires assy  
 nes for ever. For yt a man wyl purchase landes  
 in fee simple, he must nedis have these wordes  
 (his heires) in his purchas, for these be the one  
 ly wordes that make the estate of inheritaunce.  
 Therefore yt landes be gyven to a man, for ever  
 and no mencion be made of his heires he hath  
 an estate but for terme of his lyfe because these  
 wordes (his heires) do lache.

**Deyle.**

yet nevertheless, yt a man by his testament  
 dothe bequeer landes to an other in such place or  
 case where the custome or lawe wyl lerge, so to  
 do though he maketh no mencion of heires,  
 but sayeth that he bequeir to such a personne  
 such landes to have and to holde to hym and  
 to his assynges for ever more: hers a state of in  
 heritaunce doth passe, for in testaments the will  
 and intent of the testatoure is to be poyssed, a  
 nat the formal and prescripte wordes of y<sup>e</sup> lawe.  
 Also these termes in the lawe, franche mar  
 age, and franche almayne that is to say, free mar  
 age and free almayne do include in their wordes  
 of inheritaunce.

**Donum  
 femini et  
 sanguini  
 suo quid  
 sit.**

And therefore yt I geve landes to a man with  
 my doughter in franche marriage without fur  
 ther addycion or mencion of heires, this is an  
 estate of inheritaunce, as he shall hereafter des  
 clare more plentiously. In lyke wyse it is of lan  
 des gyven to an house ecclesiastycall in pure and  
 franche almes. Whosoever yt landes be gyven to  
 a man and to his bloude, or unto hym and to his  
 seide he hath in both cases a state of inheritaunce  
 for in the lesse he hath a fee taylor, and in the other  
 a fee simple. For these wordes seide, and bloude  
 and

and such lyke do implye wordes of inheritance,  
¶ Also yf landes be gyven to a man and to his  
heires males, or females, he hath by this gyfte  
a fee simple, because it is not expresse of what  
body the yssue shall come. ¶ 9. B. 6.

¶ But nowe it is to be seene, whoe he shal be a  
mans heires in the lawe, ye shall therefore knowe  
that my brother or sister by the halle blood,  
that is to wyte, by the fathers syde, and not by  
the mothers, or contrariwise by the mothers,  
and not by the fathers, shall neuer be myne heire  
nor none that come of them.

¶ Whether my bastarde can bee myne heire, nor  
myne owne naturall father nor mother nor  
graundfather, nor graundmother: can be myne  
heire. For it is a principle and ground of y<sup>e</sup> law  
that inheritance maye lawfully descende, but  
ascende it may not. And therefore yf I have lan-  
des in fee simple and dye without yssue of my  
bodye, my father can not bee myne heire, but  
my fathers brother or sister shall, and then yf  
my vncle or aunty dye seased without yssue, my  
father shal have the landes as heire to mine vncle  
and not as heire to me, for that can not be.

¶ But it may go from me to mine vncle or aunty  
well ynough, for that is not called a lawfull as-  
cension but a collaterall descente.

¶ Also ye shall understande that lawfull descent  
is when the descente is conveyed in the same line  
of the hole blood, as graundfather, father, and  
sonne, and so downe. And collaterall descente is  
out another, braynche, from aboute of the hole  
blood, as the graundfathers brother or fathers  
brother and so descendynge.

¶ And ye shall note, that by the common lawe  
¶ 11. B. 3. of this

the halle  
bloude,

a bastard  
shalbe  
no heire  
a ground  
of the  
lawe.

A lawfull  
collate-  
ral descent

Step. 111.  
102. 102

**Coparceners.**

omitted  
added  
and on  
**Chancery.**  
and on  
and on

**Dines**  
**Or,**

**A ground.**  
**of p. law.**

estate, the eldest sonne that have the hole interest  
estate, and after him if he have no issue the  
second sonne, and so forth. And if I have no sons  
but daughters, then that all the daughters to-  
gether inherit, which be called coparceners, but  
if I have no issue at all, neither sonnes ne daugh-  
ters, then that my eldest brother inheritage succeede  
me, but and if I have no brother, then my sisters  
if I have any, if not my uncle by my fathers  
side, if the landes be myne owne purchase. And  
so be those, if there bee none in life, of my fa-  
thers side, it shall go to my mothers side, and if  
there can be found no heire neither by my fathers  
side, nor yet by mothers, then shall it revert and  
eigne, as they call it, to the lord of whom it  
was holden, for every lande must needs be holden  
it landes descende unto me by my mothers side,  
of some lord, as shalbe hereafter shewed. But  
then if I have of issue, the landes that descende  
only to my heire of my mothers side, and never  
to myne heires of my fathers side, as on the con-  
trary side, if I have landes by any hereditamen-  
tes by descent from my fathers or his blood, they  
shall never descende to my heires by my mothers  
side.

And thus ye see a great difference in this be-  
half, betwene purchased landes, and landes  
which descende from myne ancestors.  
If there be three sonnes, and the middle sonne  
purchase landes and dye without issue, the eldest  
shall have the landes and not the youngest.  
And it is a principle in our lawe, that none  
can bee myne heire of landes that I holde in fee  
simple, onlesse he be mine heire by the hole blood  
that is to saye, both by father and mother, for  
a man

A man hath issue two or three sonnes by sundry  
wives, and the eldest purchaseth landes in fee  
and dyeth without issue, his halfe brethren  
meane those that be not his brethren both by the  
fathers syde, and mothers syde, shall not have  
the lande, but it shall go to his uncle.

¶ A phetwyle yf a man hath by his fyrste wyfe  
a sonne and a daughter, and by his seconde wyfe  
another sonne, and the sonne by the fyrste wyfe  
purchaseth landes in fee simple and dyeth with-  
out issue: the syster germaine, that is to saye, both  
by fathers syde and mothers shall have the landes  
by descent as heyre to her brother, and not the  
yonger brother, forasmuch as the yonger brother  
can not in this case be heyre to his elder brother  
because he is no brother germaine unto hym. As  
therwys it is of landes or other hereditamentes  
entayled as shalbe hereafter specified.

¶ Also yf a man be seyled of landes in fee simple  
and hath issue, a sonne and a daughter by one  
wyfe, and after the death of his fyrste wyfe a son  
by another wyfe, and dyeth, and the eldest sonne  
entred into the landes, and after he dieth with-  
out lawfull issue of his bodye, the daughter shall  
have the landes and not the youngest sonne, and  
yet the youngest sonne is heyre to his father, but  
he is not so unto his brother. But if in this case  
the eldest sonne had not entred after the death of  
his father but had dyed before any entree made by  
hym, then shall not the syster germaine entree, but  
the younger brother is heyre to his father because  
the eldest brother was never in actual possession,  
whiche is requisite to the person that claimeith to  
be heyre collaterally.

But to the legall heyres, it suffreth that the

anyhowe shoulde have bene heire if he had ly-  
ved; I meane as this. A man leased of landes  
and hath issue a sonne and a daughter by one  
wyfe, and afterwards a sonne by another, he  
dyeth, and after his death the eldest sonne en-  
tereth not but dyeth without issue before hee can  
make actuall entre, here in this case his sister  
shall not have the landes as heire to her brother  
because her brother was not actuall possessed  
but the younger brother shall have then as heire to  
his father. yet if the eldest sonne in that case had  
left behinde hym issue of his bodye, whether it  
had bene sonne or daughter, this issue notwithstanding  
that the father of the issue was never posses-  
sed either actually, or in the law, that have lades  
and shall convey his descent from his father the  
same hercof is this, that the sonne or daughter is  
legall heire where as the brother, sister, uncle,  
aunte, &c. be heires collateral, and so ye shall obs-  
serve a diversitie.

**By waye  
of it.**

I call an actuall possession, when a man en-  
tereth in deede into landes, whiche be to hym dis-  
cended, but a possession in law be called when lan-  
des be descended to a person, and he hath not yet  
really, and actuall entered into them. For not-  
withstanding that he is in actual possession yet he  
is possessed in the law, that is to saye, in the eyes  
consideration of the law he is deemed to be posses-  
sed, forasmuch as he is tenant to every mans ac-  
tion that will sue for the said lades of his assured  
by there shuld insue an intollerable inconvenience  
as we shal more copiously open in another place.  
I yet shall furthermore understande that this  
word (inheritance) is not only to be accommodated  
and applyed to that whiche cometh by descent  
of lades

**Hereditas  
quid sit.**



by successyon from a man alienethours or alienethours  
but also in every purchase in fee simple, or fee tayle  
¶ And note that a man can haue no larger or  
greater estate then fee simple.

## Of fee tayle.

**Y**e shall vnderstand that before a certaine  
statute called the statute of Westm.  
second, there was no state tayle but all  
was fee simple, either purely & is to saye  
without condpcion or at the lesse waie condpcy-  
onally as appeareth by the metence of the sayde  
statute, but nowe seithens the promulgatyng of  
the statute, dyuers formes of statute tayle haue  
arisen.

¶ Fee tayle is when it is prescribed and lymy-  
ted in the gyfte, what sort of heyres and by whos  
me engendred shall inherite.

¶ As for example, I geue landes to a man  
and to his heyres and go no further, this is fee  
simple: but yf I make a lymytacion, and adde  
of his body begotten, nowe is it fee tayle, that  
is to saye, a fee or inheritance lymyted prescri-  
bed, determinate, or assigned.

¶ So that yf I geue landes to a man and to  
his heyres, he hath fee simple, but yf I geue  
landes to hym and to his heyres of his body law-  
fully begotten, he hath but a fee tayle, forasmuch  
as I appoynte, lymyte, prescribe, and ex-  
presse what heyres they shalbe and for lacke of  
such heyres, the gyfte shalbe expried and worne  
out, and the landes shalbe reuerted agayne to  
the gyfte or his heyres.

¶ But ye muste obserue and note that there  
be two kyndes of fee tayle. There is a generall  
tayle

West. 2.  
Lapl. 1.

Dist. 13.

ayle and there is speciall ayle. For the firste Tayle  
 For the firste Tayle generall is as where landes be ge-  
 uen to a man and to his heyres of his bodye be-  
 gotten without any mentionyng and appoyntyng  
 by what woman they are begotten.

Generall  
 ayle.

And therfore if a man be remaine in the gene-  
 ral tayle of landes, and taketh a wife and hath is-  
 sue by her, and she dieth, and afterward he taketh  
 another wife, of whome he hath also other issue  
 hereafter of these issues is inheritable to this  
 lande intayled. But if I expresse in the genty-  
 by what woman the heyres shalbe procreate and  
 ingendred, then is it an especiall tayle, as for ex-  
 ample to make the thinge plaine, if landes be ge-  
 uen to a man and to the heyres of his bodye  
 lawfullie begotten by Margarete his wyfe,  
 this is an especiall tayle, for the issue of him be-  
 gotten by another woman, shall neuer inheryte  
 by force and vertue of the tayle. Likewyse it is,  
 if landes be geuen to a woman and to the heyres  
 of her bodye lawfully begotten (and thus not  
 by what man) this is a generall tayle, but if I  
 goe for the and saye by such man his husbände,  
 then it is an especiall tayle.

Speciall  
 ayle.

Also if I geue landes to a man and to his  
 wife, and to the heyres of their two bodyes law-  
 fully begotten, this is an especiall tayle, as  
 well in the husbände as in the wife.

Remembable it is, if a man geueth landes to  
 another man with his daughter, or his woman  
 in franke marriage, this wyse (francke mar-  
 age) importeth a state heire especially, and in this  
 case as well the man as the woman hath share in  
 the speciall tayle.

Franke  
 marriage

But if I geue landes to a man and to such  
 a woman

in mortu, and to his heires that he hath begonne  
of her, here the woman hath estate but for terme  
of her life. and the husbande an estate in the  
speciall taylor. And yf the wife it is in the wor-  
mans behalte, as yf I geue landes to a man and  
to his wife, and to her heires of her bodie of  
her sayde husbande engendred, he hath an estate  
but for terme of life, and she an estate in the spe-  
ciall taylor. But in bothe cases, yf I had sayde  
to the heires: not to his or her heirs, then shuld  
either of them have had an estate in the speciall  
taylor, by cause this worde heires is a shew refer-  
red to the one as to the other.

ye shall also understande, that yf landes bee  
geuen to a man, and the heires males of his bo-  
dy, this is estate taylor, and in this case the heire  
female shall neuer inherite.

Discente  
by heires  
males,

Also yf a man hath issue and death, and landes  
bee geuen to him and to his heires of his body  
engendred, this is a good estate taylor, although the  
father were dead at the time of the geuing.

Finally it is to be noted, that of landes which  
a woman hath in fee simple the possession of the  
brother shall cause the sister germane, that is  
to saye, the sister both by the fathers side and  
mothers, to inherite and in this case the brother  
by the mothers side shall not inherite, as he shuld  
have done by the fathers side, but of landes which be geuen  
in fee simple it is. Therefore if a man be seach of  
landes in the general taylor, and haue yssue by  
his first wife a sonne and a daughter, and also  
a sonne afterwards by another wife, and death  
and the eldest sonne entereth into the landes  
and after death, the sister germane to the el-  
dest sonne shall not have the lades but the younger  
brother

Discente  
by heires  
males,

DE partitiones et aliter advenit.

**H**ereunto I have made a compendious and shorte declaration of estates of all sortes. But where I sayde, that amonge others there is no personage or personages concerned in the inheritance of their ancestors landes but that they shalbe altogether in heritours and: what as it were but one heire it is expedient to make a further declaration and declare in this behalf, and to shewe howe and in what manner the partition shalbe made.

**De partitione**  
on percer  
ners at p  
common  
latw percer  
ners by  
custome.

But ye shall understande that there be, besides partitiones at the common lawe which be onlye betweene alle parteners by custome, which is amonges brothers contrarie to the wynde of the common lawe, and this custome is in some places of Fein, and in other places where landes and tenementes be of the tenure of socokynde.

Ye shall therefore knowe that when a manne is seised of lande in fee simple or for taylor, and hath no issue but daughters, and dyeth and the daughters do enter into the landes thus becomen ded unto them, some they be called parteners, or coheires, and ye shalbe called: De partitione facienda, because by one of them against the others, they shalbe constrained by the lawe to suffer an egall partition to be made of the landes betwene them.

**Modus de  
partitione  
facienda.**

**Partitio  
in dis  
cessu mas  
sors.**

There is a partition made in summe wayes. One waye is when they them selves do make partition betwene them of the whole heritage and do agree unto the same, and do entre every one into her part so alowed unto her.

Another waye is when by all their agreement and consent one common friend doth make the partition. In which case the eldest sister shal

have the fyrste election, and after her the seconde  
 syster, and so forth. But yf they agree y<sup>e</sup> the el-  
 dest syster shal make the partition, and she ma-  
 keth it, then the eldest shal not chose fyrste, but  
 shal suffer all her sisters to chose before her,  
 as it is thought.

There is also another forme of partition.  
 whiche is egallie to deuyde the landes into so  
 many partes as there be coheyyes or parteners  
 and to write every parte so deuyded in a leues-  
 cal scroulle of paper, and so put the sayde scroul-  
 les in a bonet, or to enclose them severally in  
 balles of ware, and than the eldest syster to chose  
 whiche balles she wyll, or to put her hande into  
 the bonet, and to make a scroulle, and to holde  
 her to her chaunce and allotment, and so con-  
 sequently every sister after other.

And ye shal note; that partition by agreement  
 may as wel be made by nude and bare wordes  
 without wrytynge as by wrytynge.

And yf any of the parteners wyll not suffer  
 any partition to be made, thā may the other that  
 would have partition purchase a wryt called *De*  
*particione facienda*, against them that refuse par-  
 tition to compell y<sup>e</sup> same to suffer partition to be  
 made accordynge, and than by the iudgement  
 of the court, the shryffe by the serement and othe  
 of twelve men shall make partition betwene the  
 and shall assigne to eche syster her portion, as  
 he shal thinke good, withoute givinge any es-  
 timation or chose to the eldest.

And yf two shewours or nieces happen to  
 be due to two sisters, and the maners be not of  
 equal value, then may the, to whome the lesse ma-  
 ners or nieces is allotted, have assigned unto her  
 a rent

Note.

I writte  
*De par-*  
*ticione*  
*faciende*

### Of partners.

a rente proportionable out of the other manes  
for the which rente she and her heyres maye dy-  
strayne of common ryght, though they haue no  
wrytyng therof.

**Distresse  
of com-  
mon  
ryghte.**

**hodyepot.**

**Franke  
marpage.**

¶ Finally, ye shall vnderstande, that yf a man  
be leased of landes in fee simple, and hath issue  
two daughters, and gyveth with one of his  
daughters to another man that shall marry her,  
the thyrde or fourth parte of his lande in franke  
marpage and dyeth, yf in this case the daughter  
that is in this wyse bestowed and auaunced, will  
haue her portion of her fathers heritage, she  
must put her lande geuen vnto her in franke ma-  
rpage in hodyepot newe agayne, I meane she  
must be contented to suffer her sayd landes to be  
commytte and myngled with the other landes of  
which her father dyed leased in fee simple, so that  
an equall deuytyon may be made of the hols, or  
elles shee shall haue no parte of those landes of  
whiche her father dyed leased. But yf her father  
had made vnto her but a common gyfte in  
tyle, or feffement in fee, shee shoulde not neede to  
put her landes in hodyepot, but may very well  
kepe and retayne them styll, and also haue as good  
parte of the rest of the landes of which her father  
dyed leased, as her other syster or sisters haue.  
For a gyfte in franke marpage, is accounted the  
most free and most lyberall gyfte that can be, and  
that gyfte whiche the laue widgeoth to her dely  
for the auauncement and bestowynge of the  
daughter, where as feffementes in fee simple, and  
also common gyses in tyle be accustomed for  
other causes, and for the auauntage rather of  
the gyuour, or feffour then of the taker.  
¶ Also yf partners make partition of landes  
beinge

being within age that partition is voyde.  
¶ And yf parteners in fee simple make partition  
and the parte of the one is better then the other  
beyng of full age of. xxi. yeares, then the party's  
eyon is good and can not be defeated, but yf it  
bee of landes in fee tayle; the one parte beyng  
better then the other, that partition maye bee de-  
feated by theyr heyres.

¶ Of Ioyntenantes.

**T**herunto verily haue wee spoken of  
Coheryes called Parceners at the com-  
mon law, which as is heretofore declared  
do come to landes & other hereditaments  
so ioyntly by the course, operation and acte  
of the lawe. Nowe shall wee speake somewhat  
of them whiche either ioyntly or severally come  
to landes, tenementes, or other hereditaments;  
by theyr owne purchase, acte, procurement and  
workyng. And of these they that come to theyr  
by ioynte tytyle, wape, or colour be called ioynte  
nantes, but they that come by severall tytles,  
wapes, or colours to landes or tenementes, bee  
named tenants in common.

¶ So then, yf a man beyng sealed of landes or  
tenementes or other hereditaments shall there  
of enfeffe two, three, foure, or more, to haue and  
to holdyng them in fee simple, fee tayle, or for  
wythyn of theyr lyues, or for terme of anothers  
lyfe, these persones so enfeffed and sealed, bee  
called Ioyntenantes. Also yf two or moo do  
expell and byllyffe another man of any landes  
or tenementes to theyr owne behoufe and vse  
these byllyffours and wynges doers are now  
become,

Tenants  
in  
common.

# Of ioynttenantes.

become ioynttenantes, bycause by their ome  
act they come ioyntlye to this lande. But yf  
they do dysseise another man to vse onely of  
one of them, in this case they be not ioynttenan-  
tes but he to whose vse the dysseisen is made  
tenaunt alone of the same, and the other haue  
nothyng in the tenacy, but be called apdours  
or conductours to the dysseisen.

Dysseis-  
an.

And ye shal vnderstand, that a dysseisen is pros-  
perly, where a man entereth into any landes or  
tenementes there where hys entree is not law-  
ful, and putteth oute hym whiche hath the free  
holde of the same.

Summe  
your ta-  
bety place

And ye shall furthermore knowe, that the  
nature of ioynttenaunce is that he whiche sur-  
uiveth and overliueth the other, shall haue to  
him selfe alone the hole & entyre tenauntee ac-  
cordynge to that estate whiche he shoulde haue  
had yf the ioynture had bene continued as (for  
example) the ioynttenantes be of landes in  
fee simple, and the one hath yssue and dyeth, in  
this case the two whiche do outliue theyr fel-  
lowes, shall haue the hole landes betwene them,  
and the yssue of hym that is departed getteth no-  
thyng. And yf the second ioynttenaunte hath also  
yssue and dye, the thyrde whiche haue overliued  
them both, shal now haue and enioye the hole to  
him and to hys heires for evermore.

Dyces-  
sers.

But otherwyle it is of coheyes whiche in  
our lawe be called perceners. For yf there be  
in suche coheyes and perceners, and before any  
particion made, the one haue yssue a sonne or a  
doughter and dyeth, hys portion shall descende  
and fall to his chyld, and shall not runne amon-  
gst the other ioynte heires or coparceners.

Spote



Whiche if such partener or coheire hadde dyed  
withou issue, then shoulde his portion haue descen-  
ded to his coheires. But howe not by force  
of surtyuour or ouerluyng whiche in lagn is  
called ius accrescendi, but by verpe descende, for  
where anye of the coheires dye without issue,  
who can be heire to hym or her so dyng, but the  
other coheire to hym or her soo dyng, but the  
other coheire or the rest of the coheires if there  
be manye. ¶ And lyke as this right of surty-  
uer or ouerluyng holdeth place amonges ioynt-  
tenauntes of landes and tenementes, so in lyke  
manner it holdeth place amonges them which haue  
ioynt estate or possession with others of chattelles  
whether they be real or personall. As for exam-  
ple) if a lease of landes or tenementes bee made  
to manye for terme of certayne yeres the ouerly-  
uer or ouerluyers shall haue the hole durynge the  
terme by force of the same lease. So of chattelles  
personall, if an hourse, oxe, greyne or other such  
personall chattell bee gyuen to manye, her whiche  
ouerluyeth shall haue the same alone. In sembla-  
ble wyse it is of dettes and duties. For if an ob-  
lygation be made to manye for one dei, and so of  
other cōnauentes and contractes.

Also some Joynttenauntes maye bee whiche  
maye haue ioynte estate and bee ioynttenauntes for  
terme of theyr lyues, and yet haue seuerall inhe-  
ritauces. As where landes bee gyuen to two  
men and to the heires of theyr two bodies enge-  
dred, in this case, these two personnes haue  
ioynt estate for terme of theyr two lyues. And  
yet they haue seuerall inheritances. For if the  
one haue issue and dye, the other that surtyueth  
shall haue al by force of the surtyuour for terme

Joynt-  
nauntes  
of real or  
personal  
goodes.

Joynt-  
nauntes  
of seuerall  
inheritan-  
ces.

### Of ioynttenantes.

Tenaun-  
tes in  
common.

of his lyfe. And yf he that suruiveth hath also  
issue and dye, than the issue of the one shal have  
halfe of the landes, and the issue of the other shal  
have thother halfe, and they shal holde the lande  
betwene them in commune and shal not be ioynte  
nauntes, and tenauntes in common and the cause  
and reason why suche donees in such cases have  
ioynte estate for terme of their lyues, is for that  
at the beginning the landes were given to the two  
whiche wordes without more sayinge, make a  
ioynt estate to them for terme of their lyues, for if  
a man wyl let land to another by dede or with-  
out dede, not makynge mention what estate he  
hath and of this maketh lyverie of leysyn, in this  
case the lease shal have state for terme of his  
lyfe. And yf he have no lyverie of leysyn he is  
but tenaunt at wyl. And so for asmuch as the  
landes were given vnto them, they have a ioynte  
estate for terme of their lyues. But the cause why  
they have severall inheritaunce, is this, for that  
they can not by possibilitie have an heire betwene  
the engendred as a man and a woman may have  
wherfore the lawe, wyl that their estate and their  
inheritaunce shalbe suche as reason wyl after  
the forme and effecte of the wordes of the gifte  
and that is to the heyres that the one engendred  
of his body by any of his wyues, and to the heyres  
that the other engendreth of his body by any of  
his wyues. So it behoueth by necessitye of rea-  
son, that they have severall inheritaunces. And  
in such case yf the yssue of one of the after y death  
of them both doth dye, so that he hath no issue a-  
nyue of his body engendred: then the donoure  
whiche gave the landes or his heyres may enter  
in the halfe as in his reuercion thowgh the other  
hath

With ioynt aliaut. And the cause is that forasmuch as the inheritaunces be severall, therfore the reversion in the lawe is severed, and the survivor of the yssue of the other shall holde no place to have the hole. And as it is sayde of males in the same maner it is where lades be geven to two females & to the heires of their two bodies begotten. Also yf landes be gyven to two and to the heires of one of them, this is a good ioyntenancie, and the one hath a freeholde, and the other hath a fee simple, and if he whiche hath fee simple dye, he that hath the freeholde shall have the hole by the survivor for terme of his lyfe.

And yf these two ioyntenantes ioyne in a gyfte in taile to a straunger, reservinge a rent to hym that hath a state but for his life, this reservation is voyde to make a tenure. Likewise it is where tenementes be gyven to two to the heires of the body of one of them engendred the one hath freeholde and the other in fee taile.

Note, yf twoo ioyntenantes be leased of estate of fee simple and the one graunteth a rente charge by his dedde to another out of the whiche to hym belongeth, in this case duringe the lyfe of the grauntour the rent charge is good and effectually but after his dealese the rent charge is voyde, as to charge the landes, for he that hath the land by the survivor shall holde al the land discharged, the cause is for that he that suruiveth, claymeth to have the land by the survivor and not by descent of his felowe.

But otherwile it is of perceners or coheires for if there be two perceners in fee simple & before any petition made, the one chargeth that, & to hym belongeth by his dedde of a rent charge & dieth w<sup>th</sup>

Survivor  
uour holdeth  
no place.

Rent  
charge  
graunted  
by a ioynt  
tenant.

Dyuer  
lyte.

# Of ioynttenauntes.

putt inue, here that whiche to hym belongeth diu-  
 tendeth to the other partener and in this case  
 the other partener that holde the lade charged by  
 cause he cometh to p halfe by descent as beyde.  
 ¶ Also yf there be two ioynttenauntes in fee sim-  
 ple, within one borough where the landes & ten-  
 nementes within the same borough be diuisible  
 by testamēt, yf the one of the sayde ioynttenauntes  
 deuyle that whiche to hym belongeth, by testas-  
 ment and dye, this deuyle and legacion is voyde.  
 And the cause is for that, that no deuyle may take  
 effect yll after the death of the testatour whiche  
 bequethed and deuiled the same, and by his death  
 all the lande incontinent cometh by the lawe  
 to his felowe that suruiueth by the suruiuour  
 whiche neyther claymeth nor hath any thyng in  
 the lande by the deuyle but in his owne right,  
 by the suruiuour after the course of the law and  
 for this cause suche deuyle is voyde.

Deuyle  
 by testa-  
 ment.

I ground  
 of p law.

¶ But otherwyle it is of parteners sealed of  
 tenementes diuisable in such case of deuyle for  
 the cause aboue remembred. Also it is commonly  
 sayde, that every ioynttenaunt is sealed of the  
 lande that he holdeth ioyntly par my et par  
 tout, that is, throughte out & by all. And this is  
 as much to say, that he is sealed by every par-  
 cell and by all whiche sayinge is true for in es-  
 uery parcell and parte and throughtout all the  
 landes and tenementes he is ioyntly sealed wityh  
 his felowe. And therefore yf the one ioynttenaunt  
 make a feffment to his companion, this is voyde  
 bycause he can make no livery of seison to him.  
 Also yf two ioynttenauntes be sealed of certeyne  
 landes in fee simple & thone letteth that, p to hym  
 belongeth to a stranger for terme of .xl. years &  
 dyeth

Diuers  
 it.

Speeth wythin the terme, in thys case after hys death the lesse may entre and occupie the halfe to him letten durynge the sayde terme though the lesse neuer had possession of it in the lyfe of the lessour by force of the lease. And the dyfference betwene the case of the graunt of a rent charge and thys case is thys that in the graunt of a rent charge by a ioyntnauit the landes or tenementes abyde alwaye as they were afore wythoute that, that any hath ryght to haue percell of the tenementes but them selfe and the tenementes abyde in such pte as they were before the charge. But where a lease is made by a ioyntnauite to another for terme of yeaeres, incontinent by force of the lease the lessee hath ryght in the same lande that is to saye, of all that, that to his lessour belongeth by force of the same lease durynge hys terme. And yf the lessour in thys case dye the other ioyntnauit shall haue the rent or ferme durynge the sayde terme because the reuerzion is come to hym by surruptiue. Finally yf a ioynte estate be made of lande to the husbnde and wyfe and to the thyrde persone, in thys case the husbnde and the wyfe haue not in the lawe in their ryghte but the halfe, and the thirde person shall haue as muche as the husbnde and the wyfe haue that is to saye, the other halfe.

And the cause is for that the husbnde and wyfe be but as one persone in the eye of the law, and it is here in lyke case as if estate bee made too two ioyntnauities where the one hath by force of ioynture the one halfe, and the other the other halfe. In semblable wyse it is where estate is made to the husband and wyfe and too other two men, in thys case the husbnde and the wyfe

Differen  
te betwen  
a graunte  
of a rent  
e a lease,

have not but the thyrde parte and the other two  
men the other two partes.

¶ Also yf two or thre together dyssepleth ano-  
ther of landes and tenementes to their owne vset  
then suche dyssepleures be called ioyntenautes.  
Wher shalbe sayd of this matter touchyng ioynt  
tenautes in the next chapter.

#### ¶ Tenantes in common.

**T**enautes in common (as I sayd before)  
be they that haue landes or tenementes in  
fee simple, fee tayle, or for terme of yere,  
whych haue suche landes and tenemen-  
tes by seuerall tytles, and not by ioynte tytles and  
none of theym knoweth that whiche is seuerall  
to hym. And in this case they ought by the lawe  
before partition made betwene theym to occupie  
suche landes and tenementes in common and for  
vndeupped to take the profyttes in common. And  
by cause they come to suche landes and tenemen-  
tes by seuerall tayles and not by one selfe ioynte  
tytles and theyr occupation and possellion in the  
same is amonge theym in common, they be cal-  
led tenantes in common or tenantes per indis-  
uiso. As for example, if a man infeoffe ii. ioynt  
tenantes in fee simple, and the one of them al-  
ieneth that, that to hym belongyth to another in  
fee, nowe the other ioyntenant and he to whom  
the alienation was made by tenantes in common  
for that they be seled of suche tenementes by  
seuerall tytles, for the one cometh to the one  
halfe by the feoffment of the ioyntenant and  
the other hath the other halfe by force of the  
first feoffment made to hym and to his first  
elowe and so they be in by seuerall tytles and by  
seuerall

## Generall feoffmentes.

¶ And it is to wytte, that when it is sayde in any booke, that a man is leased in fee without more sayinge or addition, it shalbe vnderstande fee simple, for it shall not be vnderstande by such word in fee that a man is leased fee tayle, excepte there be put in it suche addition (tayle)

¶ Also yf thre ioyntenauntes be and the one of them alenyeth that whiche vnto hym belongeth to another in fee, in this case the alience is tenaunt in common with the other. ii. ioyntenauntes. But yet the other two ioyntenauntes be leased of the two partes ioyntely, and of these two partes the survivor betwene them holdeth place.

¶ Also yf there be two ioyntenauntes in fee and the one gyueth that, that vnto hym belongeth to another in the tayle, the donee and the other ioyntenaunt be tenauntes in common. But if the landes be gyuen to two men and to the heyres of theyr two bodies engendred, the dones haue ioynt estate for terme of theyr lyues, and yf eche of them haue issue and dye their issues shal holde in common.

¶ Also yf landes be gyuen to two men to haue and to holde, the one halfe to the one and to his heyres, and the other halfe to the other and to his heyres, they be tenauntes in common.

¶ Also if a man leased of certayne landes enfeofeth another in the halfe of the same land without any speche of assygnement or lymytation of the same halfe in seueraltie at the tyme of the feoffment, then the feoffe and the feoffour shall holde theyr partes of the lande in common.

¶ And as it is of tenauntes in common of landes or tenementes in fee simple or fee tayle, euen

Distyn-  
tion of  
fee onely.

Joynte-  
nauntes.



**Ioynte  
tenantes**

**Tenaunt in common.**

So it is of tenantes for terme of lyfe. Therefore  
yf two ioyntenautes be in fee and the one letteth  
to a man that, that vnto hym belongeth for terme  
of life and the other ioyntenaunt letteth that wher  
the to hym belongeth to anothe r for terme of lyfe  
also, these two lessees be tenantes in common for  
terme of theyr lyues.

Also if a man let landes to two me for terme  
of theyr lyues, of whom the one graunteth al hys  
estate too another: then that other tenaunte for  
terme of life, and he to whome the graunt is made  
shalbe tenantes in common during the time that  
both lessees be alive.

**Question**

Note yf there bee two ioyntenautes in fee  
and the one letteth that, that vnto hym belongeth  
to another for terme of lyfe: the tenaunt for terme  
of lyfe duringe hys lyfe and the other tenaunte  
that did not let be tenantes in common. And up  
pon this case a question maye ryse as this: Let  
the case bee that the lessour hath issue and dyeth,  
leavinge the other ioyntenaunte hys felowe, and  
leavinge the tenaunte for terme of lyfe, the questio  
n is whether the reversion of the halfe that the  
lessour hath shall descende to the issue of the less  
sour or whether the other ioyntenaunt shal have  
it by the surpuoure or no. And somme have  
sayde, that the other ioyntenaunte shal have the  
reversion by the surpuoure for as muche as,  
when the ioyntenautes were ioyntely seyled in  
fee simple, though one of theym made estate of  
that, that vnto hym belongeth for terme of lyfe,  
and though he hath severed the franche tenement  
of that, that to hym belongeth by the lease, yet he  
hath not severed the fee simple.

But the fee simple abydeth to theym ioyntly as  
it was



**Tenantes in common. Fo. cxiij.**

It was before. And so yt seemeth vnto them. & the  
other ioyntenaunt whiche suruiueth shall haue  
the reuerſion by the ſuruiuour. But other haue  
thoughts the contrary, and thys for their reaſon.  
When one of the ioyntenauntes letteth that  
whiche vnto hym belongeth to another for terme  
of lyfe by ſuche leaſe the franke tenement is ſe-  
cured from the ioynture. So that the reuerſion  
that is dependaunt vnto the ſame franke tenes-  
ment is ſecured from y ioynture. Furthermore  
yf the leſſour had reſerued to hym a yearly rent  
vpon the leſſe, the leſſour onely ſhould haue the  
rent whiche is a proſe & the reuerſion is onely in  
hym, and that the other hath nothinge therein.

**Reſcite.**

Alſo yf the tenaunte for terme of lyfe were  
impleded and make defaulte after defaulte, the leſ-  
ſour ſhalbe onely here vpon receyued to defende  
hys ryght and not his felowe, wherby prometh the  
reuerſion of the halfe to be onely in the leſſour  
and ſo conſequently, yf the leſſour die, bypynge  
the leſſe for terme of lyfe the reuerſion ſhall  
diſcende to the heyres of the leſſour and ſhall  
not come to the other ioyntenaunt by the ſurui-  
uour after theſe mens opinions, yet it is doubte.  
But in thys caſe, yf the ioyntenaunte that hath  
the franke tenement, haue iſſue and dye, bypynge  
the leſſour and the leaſe, then it ſemeth that the  
yſſue ſhall haue the halfe in hys demeiſne, as of  
fee by diſcent for aſſauche as the franke tenes-  
ment may not by nature of the ioynture be an-  
nexed to a reuerſion, and it is certayne that he  
that letteth was ſealed of the halfe in hys de-  
meiſne as of fee, and that none ſhall haue any  
ioynture in hys franke tenement. So that thys  
ſhall diſcende to hys yſſue.

**Quere.**

**ſum of  
expes**

**Tenantes in common.**

**Release.**

¶ If three tenants be, and the one released by his dede to one of his felowes all the ryghts he hath in the lande, then hath he to whom the release is made the thirde part of the landes by force of the release, and he and his felow that holde the other two parties jointly. And as to the thirde part that he hath by force of the release he holdeth it with hym selfe and his felow in common.

¶ And it is to wote, that sometime a dede of release shall take effect to put the state of hym that made the release in hym, to whome the release is made in case aforesayde.

¶ Also if a jointure estate be made to the husbunde and wyfe and to a thirde person, and the thirde person releaseth his ryghte that he hath to the husbunde: then hath the husbunde the halfe, whiche the thirde person had, and the wyfe of this hath nothing. Semblable is the thirde person had released to the wyfe not harmynge the husbunde in the release, then shal the wyfe have the halfe that the thirde person had, and the husbunde nothinge of this but in right of his wyfe because suche release shal entere to put the estate to hym to whom it was made of all that that belongeth to hym that made the release. Agayne in some case a release shal entere and serue to put all the ryght that a man hath that made that release in hym to whome it is made. As a man beinge seased of certayne landes is dysseised by two dysseisors of the person dysseised by his dede releaseth all his ryghte to one of the dysseisors, then he to whom the release is made shal have and holde all to hym alone and put out his felowe out of the occupation of it. And the cause is for that the two dysseisors were seased by wronge.

**Dysseisors.**

**Tenantes in coluion. Fo. xxiij.**

Wronge by them done agaynst the law, and what one of the getteth the release of him that had right to enter, this ryght resteth in hym to whom the release is made, and in such plise as if he that had the ryght had entred and enfeofed hym of the same. And the cause is, for that he that before had an estate be wronge hath now by the release a ryghtfull state.

¶ And in some case a release shall enure and take effecte by way of extynguishment, and such a release shall helpe the ioyntenant to whom the release was not made as wel as hym to whom it is made, as if a man be dysseised, and the dysseysour maketh a feoffment to two men in fee of the person dysseised release to one of the feoffees in fee by his decede, than such reales that enure to bothe the feoffees because the feoffees haue estate by the lawe, that is to save by the feoffment and not by wronge done to any other.

Release  
by way  
of extyn-  
guishment

A release  
shal en-  
ure to  
him in  
remain-  
der.

¶ And in lyke maner of the dysseysour make a lease to a man for terme of lyfe, the remainder ouer to another in fee, of the dysseysour wyl release to the tenant for terme of lyfe all his ryght this release serueth as well to him in the remainder, as the tenant for terme of lyfe. And the cause is for that the tenant for terme of lyfe cometh to his estate by the course of the law, and for this cause the release shall enure and take effecte by way of extynguishment of the ryght of hym that hath released. And by this release the tenant for terme of lyfe hath no greater estate than he had before the release made vnto hym and yet the ryght of hym that released is all utterly extynct and gone. Wherefore forasmuche as such release can not enlarge the state of the tenant

naunte

**Tenauntes in common.**

naunt for terme of lyfe, it is reason, that it shal  
serue hym in the remaynder.

Also yf there be two parceners, and the one  
alyeneth his parte to another: the other parceners  
and the alvene be tenauntes in common.

**Tenauntes in  
common  
by title  
of pre-  
scription.**

Furthermore tenauntes in common may  
be by tytle of prescription yf the one & hys aun-  
cestours or they whose estate he hath in & halfe  
haue holden in common the same halfe wyth the  
other tenaunte that hath the other halfe and wyth  
his auncestours or them whose estate he hath as  
vndeuyded tyme out of mynde.

**Actions  
seuerall.**

And ye shal marke, that in some case tenaun-  
tes in common ought to haue of their possession  
seuerall actions, and in some case they shal ioyne  
in one action, for yf there be two tenauntes in  
common and they be diseased, they ought to haue  
against the desseyfour two assyses and not one  
assyse. For euery of them ought to haue an as-  
sise of hys halfe, because they were seased by  
seuerall tytles, but otherwise it is of ioyntenaun-  
tes, for if there be .xx. ioyntenauntes & they be dis-  
seised, they shall haue in al their names but one  
assise, because they haue but one ioynte tytle.

**Assise.**

**Assise.**

Also yf there be thre ioyntenauntes, of whom  
the one releaseth to one of hys felowes all the  
ryght he hath and afterwarde the other two be  
diseased of the hole, in this case they shall haue  
in both their names one assise of the two parts  
tyes. And as to the thyrde parte he to whom  
the releas was made oughte to haue thereof an  
assise in hys owne name, because as to the thyrde  
parte he is tenaunt in common.

**Dyuerse  
tyes.**

Also as to sue actions that touche the realtye  
there is a diuersitye betwene parceners that is  
dyuerse

In diuers discentes and tenauntes in common.  
For yf a man seales of certayne landes in fee,  
hath yssue two daughters and dye, & they entre  
into the landes as coheires, and eche of theym  
hath yssue a sonne & dye wythout partition made  
betwene theym, so that the one halfe descendeth  
to the sonne of one percenter, and the other halfe  
to the sonne of the other and they entre & occupie  
in common, and be disseised, in this case they shal  
haue in theyr two names one assyle, and not two  
Assyles. And the cause is thoughte thei come in by  
diuers discentes, yet they be coheires & percenters.

Also yf two tenauntes in common of cer-  
taine landes in fee, geue the same to another  
man in the taylor, or letter to another for terme  
of lyfe, yeldyng annuete of certayne rent or a  
pounde of pepper, or an hawke, or an horse, and  
they be seales of these scrupes and afterwarde  
all the rent is behynde and they distraine for yt  
and the tenaunte maketh there rescous, in this  
case as to the rent and the pounde of pepper they  
shal haue two Assyles, and as to the hawke and  
the horse but one Assyle. And the cause whye  
they haue two assyles as to the rent and pounde  
of pepper is for that they were tenauntes in com-  
mon by general tyties, and when they made a gift  
in the taylor or lease for terme of lyfe, souping and  
reseruyng to them the reuerfion and yeldyng  
to hym certayne rent: this reseruation is in spe-  
ciale to their reuerfion.

And because their reuerfion is in common and  
by general tyties, even as their possession was  
before the rent and other thynges whiche maye  
be severed and whiche were to them reserved  
on the gift or upon the lease whiche he made

Plavnte  
in assise

dent by the lawe to the reuerſion, therefore ſuch  
thynges ſo ſeuered be of nature of reuerſion.

Wherfore yt behoueth that the rent and þ poſſe  
of þeper which may be ſeuered to be them in com  
mon by ſeverall tytes. And of thys they ſhall  
haue two Wiſes, and every of them in hys Wiſe  
ſhall make hys plavnte of the halfe of the rents  
and of the halfe of þ poſſe of þeper. But of the  
hauche and the hoſe, whiche can not be ſeuered  
they ſhall haue but one Wiſe, for yt were an al  
ſurdyte and thyng inconuenient to take a plavnt  
in aſſiſe of the halfe of an hauche or of the halfe  
of an hoſe. In lyke maner it is of the other rents  
and ſeruyces that tenantes in common haue  
in groſſe by dyuers tytes.

perſonall  
actions.

And yee ſhall underſtande that concerninge  
action perſonals, tenantes in common ought to  
haue them ioynly in all theyr names, that is to  
ſaye of treſpas or of offences that touch the  
tenementes in common, as of breakinge of theyr  
houſes, breakinge of theyr cloſes, and paſtures  
waſtyng and defoulyng of theyr graſſe, cut  
tyng of theyr woodes, and of ſpytyng in theyr  
poundes and ſuche other, and they ſhall recou  
er ioynly damages, becauſe the action is in the  
perſonalitye and not in the realtye.

Damage.

tenantes  
in comon  
ſhal haue  
one acti  
on of det.

Alſo yf tenantes in common make a leaſe  
of theyr tenementes to another for terme of y  
res yeldyng vnto them yearly a certayn rente,  
yf the rent be behynde, they ſhall haue one ac  
tion of dette agaynſt the leſſe and not dyuers ac  
tions becauſe the action is in the perſonalitye.  
But in aſſoury for the ſayd rent they ought to be  
ſeuered becauſe yt is in the realtye as the aſſiſe is.

Quowry.

Tenantes in common of chylde



**T**is to be knowen that as there be tenants in common of landes or tenementes; so there be tenants in common of possessiō and properties of chatels aswell reall as personal. Of reall as if

lease be made of certayne landes to two men for termes of. xx. yeres, and when they be therof possessed the one graunteth that, that vnto him belongeth during the terme to another he to whom the graunt is made and the other shall hold and occupye in common.

**A**lso yf two ioynttenantes haue the ward of the body and of the landes of an heyre within age and th one of them graunteth to another that, that vnto hym belongeth of the same ward, then he to whom the graunt is made, and the other y graunteth not shall haue and holde it in common.

**O**f chatels personals, as yf two haue a ioynt estate either by gyfte or by byrnyng of an horse; or of an oxe or suche lyke, and the one of theym graunteth that, that to hym belongeth, here shall the graunte and he that graunted not, haue and possede suche chattell personal in common. And in suche cases where dyuers persones haue chatels reals or personels in common and by dyuers titles yf one of them dye, the other that suruiueth shall not haue hys felowes parte by the suruiuour, but the executors of hym that dyeth shall hold & occupye yt with him that suruiueth in like forme as their testatour did or ought in hys life, forasmuch as their titles and rightes were legal.

**A**lso in the case aforesaide, yf two haue estate in common for termes of yeres, and the one dooth

D. 11,

occupye

Joyntes  
na unites  
of award



**I** wrytte  
de iectio-  
ne fpyne.

**the electi-  
one custo-  
dye.**

**trespas.**

**Forrme  
of plea-  
dyng.**

### **Of matters.**

occuppe all and putte the other oute of his posses-  
syon and occupation; then shall he that is put out  
haue agaynst thother a wrytte de Ectione fier-  
me for the halfe. In semblable maner where  
two holde the warde of lande or tenementes be-  
tyng the nonage of a chyld, yf one shall putte  
out the other of his possesyon, he that is oute  
shall haue a wrytte de Ectione custodie of the  
halfe, because these thynges be chatels reals and  
maye be appoynted and seuered. But no ac-  
tion of trespasse lyeth for the one agaynst the o-  
ther (as for example: Quare claudum tui fregit  
et herba tuam conculcauit et consumpsit non such  
lyke actions) forasmuche as eche of them maye  
entre and occuppe in common. But yf two be  
possessed of chatels, personels in common by di-  
uers tytles as of an house, or an ore, cowe, yf  
the one take it all to hym selfe oute of the posses-  
syon of the other, the other hath none other re-  
medye, but to take it agayne from hym that hath  
done hym the wronge, when he may see his tyme.  
In lyke maner of chatels reals, which maye  
not be seuered, as in the case aforesayde, where  
two be possessorers of a warde of the bodye of  
a chylde within age, yf one shall take a chyld  
out of the possesyon of the other, the other hath  
no remedye by any action at the lawe, but to take  
the chyld out of the others possesyon, when he  
seeth his tyme.  
Synallye ye shall vnderstande that whan al  
man in pleadyng and declaryng his cause wyl  
shewe a dede of froffment made vnto hym or  
a gyle in fee taylor or a lease for terme of yere of  
any landes or tenementes, shall vse his termes  
in this toyle, and saye, by force of such froffes  
mone



Of partition by ioyntenauntes fol. xxvii.  
ment, gyfte, or lease, was sealed.

But where a man shall declare or pleade a lease or a graunt made unto hym of a chafell real or personall, these he shall say by force of whiche he was possessed.

¶ Of partition to be made by ioyntenauntes and tenauntes in common enacted.

Anno. rrr. h. viii.

**A** ioyntenauntes & tenauntes in common of any estate of inheritance in their owne ryghtes or in the ryght of their wiues of any lades or hereditamentes within this realme of Englande, Wales, or the marches of the same, shall and maye be compelled to make partition betwene theym of the same, whiche they so holde as ioyntenauntes or tenauntes in common by writ de participacione facienda to be dewysed in the chancerye in lyke maner as coparceners are compelled to doo, and the same writte to be pursued at the common lawe. And after such partition made euery of the sayd ioyntenauntes and tenauntes in common, shal & may haue syde of the other: or of theyr heires, to thintent to dererygne the warrantie paramounte and to recouer for the rate as is vsed betwene coparceners after partition made by the order of the common lawe.

Writte,  
de partici  
pacione  
facienda,

syde  
prayed.

Item in the. xxxii. yere of kyng Henry the viii. Cap. xxxii. It is further enacted that all ioyntenauntes & tenauntes in common which hold ioyntly or in common for terme of lyfe, yere or yeres or ioyntenauntes or tenauntes in common where one or some of them haue estate for terme of lyfe or yeres with other that haue estate of

D. iii.

intre

## Of conditions.

Inheritance of free holde in anye landes or other hereditamentes shall be compellable by writte of Partition to be pursued out of the countie vpon theyr tales, to make seuerance and partition of al such landes and hereditamentes as they holde ioyntly or in common for terme of lyfe or lydes, yeares or yeares where one of some of them holde ioyntly or in common for terme of lyfe or yeares wth other that haue an estate of inheritance of free holde. Provided that no such partition nor seuerance, be hurtfull to any person other then such as be parties unto the sayd partition theyr executors or assignes.

## Of conditions.



As muche as anye estate is either pure or condicionall, it were nat amysse to make some declaration of the nature and efficacy of condicions. Wherfore ye shall vnderstande that of condicions, some be actual condicions, and be called expresse condicions or condicions in dede, and others for me be condicions in lawe which be called also in latyne Condicions tacite, sine condicione and plicite, because they be secretly employed by the lawe and not expresse.

## Diuisiō

## Condiciō ons in dede

Condiciōns in dede be such as be knytte and annexed by expresse wordes to the feoffemente lease or graunt, either in writte or wthoute as for example if I infeofe a man in certayne landes reseruinge to me and to my heires to paye the rent yearly to be payde at such a feaste, and for default of payement that it shoulde be lawfull for me to reuente, this is a condiciō upon condiciō

# Of condicions.

Fol. xlviii

tion of paymēt. And here the nat paymēt of  
the rent shall desolve and utterly defete the feoff-  
ment cessable. It is of giftes in tale leases. &c.

¶ But yf the condycion be, that for default of  
paymēt of the rent, it shall be lawefull for the  
feoffour to entre agayne into the landes and to  
holde them tyll he be contented and satisfyed of  
the rent, this condycion nat perfourmed doth nat  
dissolve nor vnder the feoffment, but onely  
geueth to the feoffour an auctorite to retayne  
the landes (as it were by waie of dystresse) tyll  
he hath leaved y arreages of the rent. And ye  
shall well marke and obserue, that condycions  
be some tyme made to be perfourmed on the feo-  
ffers behalfe, and sometyne on the feoffours be-  
halfe. On the feoffers behalfe, as whan I en-  
feoffe you of landes or tenementes upon con-  
dycion that he shall do suche an acte, as to paye vnto  
me or myne heires suche an annell rent.

¶ On the feoffours behalfe as whan I make  
a feoffment vnto you upon condycion that yf I  
paye or cause to be payde vnto you before suche  
a daye suche a summe of money, then yf shall be  
lawefull for me to entre agayne and retayne my  
landes in my former estate. In this case he y is  
the feoffe is called tenaunt in mortgage, whiche  
is as muche to saye as dede gage and it semeth  
that the cause why it is so called, is for as muche  
as it is doubtfull whether the feoffoure wyl pay  
at the day tympted and prescribbed suche summe  
of money for the redemption of his landes or  
not for yf he do nat his title or intresse on the  
landes thus gaged and oppugnotate is utterly  
extynct and gone without all hope of renouage.

¶ Ye shall also note, that yf the mortgagoure

Distress.

Tenaun-  
tes i mor-  
gage.

D. liii.

Distress.

### Of condicions.

bych before the daye of payment, hys heyre may redeme the lande very well, even as well as hys suncestour & mortgaged the lande mighte have done althoughe there be no mention made of hys eys in the wytyngs.

condicions  
voyde.

Also yf when the money is lawfullpe by the mortgagour or hys heyre rendred and proffered & the lessour refuseth to receyve the same the feoffour or his heyre maye entre, & then hath h feoffe no remedye for hys money at the common lawe. I ye shall understande also, that some condicions be utterly voyde in the lawe, and of none efficacy, vertue, or strength, as yf a feffement be made of landes in fee simple upon condicion, that the feoffe shall not alvene or put awaye the same to none other, thys condicion I saie is voyde, because the feoffee is restrayned of hys hole power that the lawe geueth in suche case vnto hym, and whiche power and libertye, is in maner included in euery feoffment. yet I maye abrygge hym of parte of hys power, as to condicion wyth hym that he shall not aliene the landes to suche a persone or suche. But of gyftes in taylor othertwyse it ys, for yf I geue landes to a man and to the heyres of hys bodye lawfullpe begotten vpon condycyon that he nor hys heyres shall aliene the landes to none other persone thys condicion ys good and effectuall in the lawe, and yf he or hys heyres contrarie to the condicion do aliene the, then the geuer or his heyres may verpe well entre and retayne the landes for ever because thys condicion shall stande wyth the fornamed statute of westmynstre secunde whiche prohibyeth suche alienations to be made.

Byt in  
taylor vpon  
condi  
tion.

Byt in

I have heretofore haue I spoken of conditions in  
debe, nowe wyl I shewe what be conditions in  
lawe that be annexed to any estates.

I know ye therefore, that yf the offyce of a **Estates,**  
Barter, Stewarde, Constable, Bedell, or halpfe **vpō con-**  
or such lyke offyce be graunted to a man for terme **dicion in**  
of his lyfe, though there be no condition at all **lawe.**  
mentioned in the graunte, yet the lawe speaketh  
of a condition in this case, whiche ys that yf the  
partye to whome such offyce ys geuen shall not  
execute all poyntes apperteynyng vnto his of-  
fyce accordynge, by him selfe or hys lawefull  
deputye, it shalbe lawfull for the graunter to free  
and dyscharge him of hys offyce and this condi-  
tion is called a condition in lawe. There be also  
thre other maners of estates vpon condition that  
is to saye, conditions agaynst the lawe, condi-  
tions repugnant, and conditions impossible.

¶ Fyrst estates vpon condition agaynst the lawe  
be, as yf a man make a feoffment, geue graunt  
or lease vpon condition that yf the feoffours,  
donours grauntours or lessours kyll I. S. whi-  
che is not the kynges enemye, or burne his house  
that then yt shalbe lawfull to the feoffours, do-  
nours. & to tcenter, this condition is voyde  
and the state is good.

And lyke lawe is yf such condicions be to be  
performed of the parte of the feoffee, graunte &c.

But yf case be that a lease for terme of yeares  
be made of lande vpon condition that yf the  
lesse kyll I. S. that then he shall haue fee simple  
althoughe that he in this case performe that con-  
dition, hys estate is nothyng thereby enlarged  
because the condition is agaynst the lawe.

Also ye shal vnderstande that where an ob-

D. v,

ligation

## Of conditions,

**Obliga-  
tion.**

igation is endowd with a condition the which is agaynst the lawe: bothe the obligation and also the condition bee cleerlye voyde in the lawe.

**Condi-  
tions re-  
pugnant.**

**E**states vpon conditions repugnant be as yt a feoffemente or a gyfte in taylor be made vpon condycion that the feoffe or donee, shall take no profite or shall doe no wast, and suche other like, suche condycions be voyde and the state good and effectuell in the lawe notwithstanding.

**A**lso yt a lease be made for terme of life vpon condycion y he shall doe fealite this is as a voyde condition.

**A**phewple it is yt a man that hath nothyng in the maner of Sale graunteth a rente charge goinge oute of the same vpon condycion that hys personne shal not be charged thys graunt is good and the condycion is voyde.

**Condi-  
tions im-  
possible.**

**E**states vpon condycions impossible be as yt a feffement be made vpon condycion that yt the feffe goeth not through the sea on foote to Saleys in one day then yt shalbe lawefull to the feffe to reenter, thys is a frustrate and voyde condycion and yet the estate ys good.

**L**ike lawe is of a lease made for terme of years. or an obligation with a condycion impossible vt supra the obligatyon or lease ys good and the condycion voyde to all purposes.

**I**n arte howe straungers shal take advantage of condicions made. In. xxxii. §. viii.

**I**t is enacted that as well persone, whiche haue or shall haue any gyfte or graunt of the kyng by hys letters patentes of anye landes, personages, titles, or other hereditamentes, or any reuerfyon of the same, whiche dyd belonge

belonge to anye monasterie or other ecclesiastical  
house dissolued or otherwyle comyn into the  
kynges handes thys the. iiii. daye of February  
in the. xxvii. yere of our soveraygne lord kyng  
Henry the eighth, or whiche at anye tyme hereto-  
fore shal belonge to any other personne, and after  
comyn into the kynges handes, as also all other  
personnes beyng grauntes or assignes to the  
kyng or to any other personne, theyr heires exe-  
cutours, successours, and assignes, shall have  
lyke advantage agaynst the fermours, & their ex-  
ecutours, administratours and assignes by entrie  
for not payment of the rents, or for doyng waste  
or other forfayture, and also shall have y<sup>e</sup> same a-  
vantage by action onely of not performyng of  
other conditions couenantes or agrementes con-  
tained in the indentures of their leases or grauntes  
agaynst the sayde fermours, and grauntes, their  
executours, administratours, and assignes, as y<sup>e</sup>  
sayde lessours or grauntours them selves myght  
have had at anye tyme. And agayne mutuallye  
and on the other syde, the sayde fermours, and  
grauntes for terme of yeres, lyfe, or lyues, their  
executours, administratours, and assignes shall  
have lyke advantage agaynst them for any condi-  
tion couenaunt or agreement contained in the said  
indenture, as they myght have hadde agaynst  
their said lessours and grauntours, their heires &  
successours al benefittes and advantage of reco-  
veries in value by reason of any warrantie of dede  
or in law by voucher or otherwyle onely excepte.  
¶ It is ordeyned that this acte shall not extende to  
anye personne for breach of any couenaunt  
or condition compyled in anye such mypynge,  
but for such as shall be broken and not perfor-  
med



**A puerpe of season.**  
med after the fyrst day of September in the xxiiij  
yeare of this kyngs and not before.

**A puerpe of season, and attournement.**



**I**n all feoffmentes, gyftes in  
tyle, leases for terme of lyfe,  
or for terme of an others lyfe, of  
landes or tenementes, there can  
be no alteration transmutation  
of possession by the auncient las

wes of this realme onlesse there be a certayne  
ceremonie adhybited and solempnyed in the  
presence and syghte of neyghbours or others,  
whych ceremonie is called livery of season.

¶ And ye shal vnderstande, that this ceremonie  
of livery season is done when the feoffour doe  
nour, lessour or therr deputye come wythe the  
neyghbours solemply to the landes or tenements  
too, and they put the feoffe, dones or lesse in pos-  
session of the sayde landes or tenementes by des-  
liverynge vnto hym a clodde of earth, or þe ringe  
of the doze or some other thyng in the name of  
season, and for this selfe cause this ceremonie  
of lawe is called livery of season, that is to saye  
a tradicion or geyvinge of season.

¶ But this ceremonie ys not required in lesles  
for terme of yeares or in lesles at wylt forasmuch  
as the lessour in such case remaineth wyth sear-  
sed and the lessee onely hath possession wyth-  
out and the sealyng, & therfore the termes of the  
lawe be that such a man is possessed, wher as  
in feoffmentes, gyftes in tyle, and leases for  
lyfe, he is called searled.

The ma-  
ner of li-  
uerye of  
season,

Diversite  
betwene  
possession  
& sealyng.



### And attournement.

fol. 111.

Wherefore yf a feoffment or lease for lyfe be made of landes or tenementes and before that the liverye of fealty be made the feoffour dieth the heire of the feoffour shall have the landes. *Per Summum ius*, that is to saye by the ryghte of the law not withstanding that the feoffor hath payed to the feffour the price of the lande, and also thoughte the feffer be in possession. But otherwise it is of a lease for the terme of yeares.

A lyke ceremonye is used, when rent charge, rente seruyce, rente in grosse, assouison in grosse, a villaine in grosse, common in grosse, common for beastes, certayne cōmouers, & suche other thinges as passe by waye of graunt, be graunted; for it is no full & perfyte graunt til it be consignate & sealed as it were with the ceremonye of attournement.

This attournement is nothing elles, but whē the tenant of the lande of whiche the reuerſion is graunted, or out of whiche a rente is graunted do make some euident signification and token that he accepteth the person of whom the graunte is made to be in the same respecte vnto hym that the grauntoure was. As for an example, yf the tenant of the lande after he haue hearde of the graunte cometh to the graunte that is to wyt, to the person in whom the graunt was made and saye in this wise, or in lyke effecte.

I agree me vnto the graunt made vnto you by such a man, or I am well apayde & contented of the graunt & such a man hath made vnto you. But the most vsual and frequent forme of attournement is to saye. Syr I attuene vnto you by force of the sayde graunt, or I become your tenant or to deliuer vnto the graunt a pynne or a halfe pynne by waye of attournement.

Attournement.

How attournement shall be made.

**A pence of feoffment.**

**I**f a man maketh feoffment one grantee to one person, and after another to another person, that grant shall stand to whiche the tenant wyl attorne although it be the latter grant.

**A**nd ye shall note, that if a man bee seised of a manour, whiche is parcel in demesne, & parcel in seruyce, and dothe alyene the same manour to another, onlesse the tenant of the manour do attorne the seruyces shal not passe, onely tenants at wyl excepted, for it nedeth not to cause them to attorne.

**Districte.**

**N**ote furthermore there is a grente by feoffment betwene geyuge & pence in name of feoffment, and geyuge by way of attornment, for when it is given to the tenants to that grantee in the name of feoffment, it dothe not onely involve an attornment, but also it geneth hym litle a feoffment, that if the rente afterwards were beynde and not payed, he maye nowre vpon the feoffment of the pence, after a lawfull distress taken and after rescous made, bring an Assise of Mortal districte, where as if it were given onely by way of attornment he coulde not bring the Assise, but his writ of rescous onely.

**Assise.**

**Writ of rescous.**

**A**lso ye shall understande, that where landes be deuyable by testament, by the custome of any ancient borough or cite, if there the reuerse spon of any landes bee by testament bequeathed to a man in fee, and the testatour, whiche we call the deuyseur dyeth the deuyse, that is to wyte he to whome the deuyse was made hath soone with the reuerse spon in hym withoute further ceremonye of attornment. A pence if it be a man by testament dothe bequeathe a rente charge that he is seised of, or a rente seruyce, there nedeth

**Attornement.**

both none attournement at all.

¶ If two copntenautes be of lande and the lord graunteth the seruyces to another, yf one of the copntenautes attourneth it is enough.

Not as  
quisite.

¶ Finally, yf a lease bee made for terme of lyfe, the remaynder to another in tale, the remaynder ouer the ryght heire of the tenaunte for terme of lyfe yf in this case the tenaunte for terme of lyfe wyl graunte hys remaynder in fee to another by hys dede, this remaynder possesseth forth with, withoute any attournement, for yf any attournement were requisite it shulde be made of the tenaunts for terme of lyfe, which in this case is the grauntour hym selfe. And in waie it is that the graunto: shulde be enforced to atturne, with an attournement is adhypted and had to no other purpose, then to haue the consent and agreement of the particuler tenaunte to thintent. It may appere, that he hath noyce and knowledg of this graunt but here where the particuler tenaunt him selfe is the grauntour, an attournement were superfluous, and more then needed.

¶ Note furthermore that where there is lord and tenaunte and the tenaunte leaseh hys tenementes to a woman for lyfe le remaynder ouer in fee the woman taketh a husbände and after the lord graunteth the seruyces. &c. to the husbände in this case duringe the couerture the seruyces be put in suspence. But yf the wyfe dye leuynge the husbände the husbände, and hys heires shall haue the rent of them in the remaynder. &c. And in this case there nedeth no attournement by word because the husbände that ought to atturne accepteth the graunt of the seruyces the wyfche acceptaunce is one attournement in the lawe.

dispen-

## Of Seruyce.



otherunto haue I breyflye touch-  
ed & ouerrunne the sundrye kin-  
des and formes of estates. Nowe  
forasmuche as there is no tenure  
but hathe vnto yt some seruyce  
knytte and annexed, it were verpe  
necessarpe to declare howe manye kyndes of ser-  
uyces there be, and what seruyce is due to euerp  
tenure. For the knowledghe herof ye shall vnder-  
stande that the pryncypall and mooste common  
kynde of seruyce that the tenaunte oweth to hys  
lorde ys called knyghtes seruice.

### Knyghtes Seruyce.

**K**nyghtes seruyce includeth homage fel-  
alty and for the mooste parte escuage and  
who so euer holdeth hys lades by knyghte  
seruyce is bounde by the lawe of this reas-  
line to do vnto hys lorde homage and sealte & to  
paye for the molte parte escuage, when it shal be  
assessed by authorytie of parliament, as hereafter  
more playnly shalbe declared.

Homage is the mooste humble and reuerente  
seruyce that a man of fre estate and condicion can  
do, for when the tenaunte shal do homage to hys  
lorde, the lorde shal lyfte and the tenaunte then  
knele down befoze him vpon both knees, holding  
his handes betwene his lordes handes and sape  
in this wyse. I become your man from this daye  
forwarde of lyfe and of membre, and earthlye  
honoure and to you shalbe faythefull and true  
and sayth to you shal beare for the lades that I  
clapme to holde of you, sayyng & sayth that I  
beare vnto our Soueraigne lorde the kynge, and  
then the lorde so sayyng shal lyfte hym. But  
yf an ecclesiasticall person, whych by his order  
and

**Homage.**

**How the  
tenaunte  
shall do  
homage.**

and professed hath addicted hymn selfe to the  
seruice of God in especiall, shall do homage to  
his lord he shall saye: I do to you homage and  
shall be to you faythfull and true and saythe to  
you shall beare for the tenementes that I holde  
of you I saunge the faythe whiche I owe to oure  
soveraigne lord be the hyng.

**C**also when a woman not married, dothe  
homage to her loade, she shall not lape, & become  
your woman for yt is not convenient that a wo-  
man shulde be the woman of any other then of  
her husbande that she shall marre, but shall lape  
even as the ecclesiasticall persons layeth: I do un-  
to you homage. at.

And yf perchaunce a man holdeth sundrye  
landes and tenementes of sundrie lordes, and  
query of them by knyghtes scrute, then in the  
ende of his homage makyng he shall take to  
swyre the sayde that I owe to our soueraygne  
lord the kyng, and to myne other lordes.

And none is bound to do homage to the lord unless it be under a tenement as hath in the feoffment an estate of fee simple, or fee tail, either in his own right, or in the right of an other.

¶ For if a woman have landes or tenementes  
in the temple or the tithes, whiche ther holdeth of  
her lordes by knightes service, and taketh an hūs-  
band and have issue, in this case the husband  
in the life of his wyfe shall do the homage,  
because he hath a title to have the landes by  
the service of Englande yf he overliueth  
her, and also he holdeth thervnto notice in his  
ownes right, yet before this usage betwene  
them the homage shall be made in some other  
manner. But yf the woman dyeth before any

What a religious  
personne  
shall saye  
when he  
doeth his  
image.

What a  
wonder  
small case

What he  
naunte  
that he  
homage.

**Knyghtes Seruyce**

homage made in her life, and the husbande in her  
life, and the husbande keepeth still the landes as  
tenant by curtesie, nothe he shal not do homage  
to his lord because he hath nowe an estate but for  
terme of lyfe.

**Fealtye.**

**F**ealtye, is as muche to save as a fidelitie or  
faythfulnesse, in doyng wherof the tenant shal  
holde his hande upon a booke, and save thus,  
Heare you this my loide, I to you shal be fayth  
full and true, and fayth to you shal beare for the  
landes and tenementes, whiche I claime to  
holde of you, and daily shal do you the miltoms  
and scrupces whiche I owe to do you at the trea  
mes assignyd, as me helpe God and his sathing.  
And then he shal kysse the booke, but her shal  
not kneele as he that doth homage, nor do such  
humble or cruerent scrupce as is before declared  
in homage.

**Howe a  
tenant  
shall do  
fealtye.**

**Dyuerse  
be be  
twene ho  
mage and  
fealtye.**

**A**nd ye shall observe, that homage shal  
not be done but to the loide hym selfe, where as the  
serwyche of the lordes courtis of the barons more  
take fealtye for the Loide. Also whiche the  
terme of lyfe shal do fealtye, but homage as I  
sayd, he can not do.

**Escheat.**

**E**scheat is concerninge escheat, that is to  
saye, the serwyche of the lordes ye shal understand,  
that he that holdeth his landes by escheat, when  
the kynge maketh a wyse royall into Escheat  
lande for the subburning of the barons, is bound  
to be with the wyse barons by the Court of  
the barons well and conveniently as they shal and  
prowide for the barre. And he that holdeth his  
landes but by the serwyche of the lordes of Escheat  
serwyche, is bound by the Court of the barons to  
be with the barons by the Court of the barons, and

to proportionably accordyng to the rate and quantitie of his tenure.

Parliament.

¶ Our notes to our Institute and purpose, after this voyage voyall into Scotlande, in whiche the kynge went in personne, and after the returne into Englande againe, a parliament is to be summoned, in whiche shalbe prescribed and assessed what every person that holdeth his lande by homage and wente not wyth the kynge neyther by hym selfe, nor by his Deputie, shall paye to his lord in satisfaction of his not scravage, and accordyng to the fashion hereof every tenant shall paye to his immediate lord whether it be the kynge or other after the rate and portion of his tenure yf he holdeth by an hols fee, he shall paye the hols escuage, yf by a moyetye, the halfe, yf by the fourthe parte of a fee the fourthe parte, &c. and this money thus assessed is called escuage or escuage, for whiche the lord to whom it is due, may berpe well for the non payment thereof by distress.

distresse for escuage.

¶ But here it is to be noted, that some tenants are by custome lited tyme out of mynde and shalde to paye but the moetye, or the thyrde parte of that whiche shalbe assessed and limited by acte of parliament.

¶ For, and the custome is in some place, that to what summe of money so ever escuage is assessed, the tenants shall paye not but such a certayne summe of money and this kynde of escuage is called escuage certayne, that is to saye where escuage is assessed by the parliament to a moyetye or lesse summe the tenant to paye to the lord, &c. and no more nor no lesse, &c. such a tenure is called Scavage tenure and not knight

Escuage certayne.

C.ii.

Scuage

serpce, where as the other is called strange  
uncertayne.

Stranger  
uncertayne  
mayne.

**C** Finally ye shall understande, that strange  
uncertayne is alwayes adioyned to be knight  
serpce, and dwelleth, vnto it warde, marriage  
and reliefe: but strange, as to be, is no knight  
serpce but is of the tenure of socage as shall be  
hereafter more amply shewed.

**C** Of wards marriage and reliefe.

**E** Every knight's serpce dwelleth vnto it  
warde marriage and reliefe. Wherfore  
it is nowe right expedient somewhat so  
to entreate of them.

Warde.

**C** Ye shall therefore be admonished, that when  
the tenant to whome the holdeth his landes by knight  
ten serpce dwelleth, his heire male beynge at that  
tyme within the age of xii. yeres, the lord shall  
haue the warde: that is to saye, the custodie of  
heppenge of the landes so holden of him to his  
maturity, and profyte, till the heire cometh  
to the full age of xii. yeres. For the lawe here  
presumeth that till he come to this age, he is  
not able so to discharge serpce, as is of this tenure  
required.

marriage.

The full  
age of a  
woman.

Furthermore if such heire be  
unmarried at the tyme of the death of the  
tenant, then the lord shall haue also the warde  
and the behoouenge of the marriage of hym.

**C** But if a tenant by knight's serpce dwelleth,  
his heire female beynge of the age of xii. yeres  
or above then the lord shall haue the warde  
neither of the landes nor yet of the body of such  
a heire, and the reason hereof is because a  
woman of that age may haue a husbande able  
to do



to do knyghtes scrupes that is to saye, to make  
upon the knynges maistyes persone when he as-  
sumeth into Scotlande with his army copail.  
¶ But yf such an heire female be within age  
at this tyme and not married at the tyme of the  
death of her ancestour, then the lorde shall have  
the ward of the lande holden of hym tyl such  
heire female cometh to the age of xvi. yeres  
by force of an acte of parliament in the statute  
of Westminster the fourth Cap. xii.  
¶ Note that there is a great diversity in the  
lawe betwene the ages of females and of males,  
for the female hath these many ages appoynted  
by the lawe. First at vii. yeres of age the  
lorde her father may by force of his landes  
for ever to marrye her. Seconde at ix. yeres of  
age, she is donable. Thirdly at xii. yeres she  
is able to assent to matrimonye. Fourthly at  
xiii. yeres she is able to have her lande, and that  
be out of ward of the be of this age at the death  
of her ancestour.  
¶ Fifthly at xvi. yeres she shalbe out of ward,  
though at the death of her ancestour she was  
within age of xiii. yeres.  
¶ Sixthly at xxi. yeres she is able to make aliena-  
tions of her landes or tenementes. Where as the  
male hath but two ages, the one at xxi. yeres  
to have his landes holden in fee, and to al-  
lene to matrimonye, the other at xxi. yeres to make al-  
ienations.  
¶ Ye shall understande that by the statute of  
Westm, the fourth chapter, it is enacted that  
ye or any the lorde do make any wards to be  
borne to others, where is disparagement, ye  
shall paye to the kinge by within the age of xii.  
yeres

Interest  
tie of age

Age of a  
woman.

The age  
of a man

# Of ward marriage.

pages or of such age that the sayde lordes shal  
not consent to the marriage, then if the frendes  
of this heire complaine and file them selves  
grieved with this unmete marriage, the next of  
kinne to the heire, unto whome the heritage  
can not descende, may enter into the landes, and  
put out the lord which is guardian in the law,  
ye and if the next kinsman will not thus do  
another kinsman of the house may do it, and  
shall take the yssue and profits to the behoofe  
of the heire, and shall pvide accorde therof  
unto him when he cometh to his full age.

Recompt  
gynage.

Divers  
disperges  
mentes.

Also there be divers other dyspergements,  
whiche be not expellid in the sayde statute, as  
if the heire beinge within age of consent, and  
in ward be married to a deforme person, or  
crepell, as to one that hath but one foot or one  
hande, or that is deforme creature, or hath any  
horrible disease or conceivall infirmitee.  
All these and suche lyke be dyspergements.  
But here also ye shall understande, that if the  
heire sayde no dyspergement, unless the heire be  
married when he is within the age of discre-  
cion, that is to saye within the age of xiiij. yea-  
res. For if he be of that age or above and con-  
senteth to suche marriage, it is no dyspergement,  
neither shall the lordes see suche marriage void  
by ward, because it shall be reputed such as  
is signed to the folie of the heire beinge of age of  
discrecion, to consent to suche marriage.

Also if some of the lordes, when heire is guardian  
of the heire beinge in his ward, make a con-  
sensual marriage without dyspergement, and the  
heire relieveth it as he may at his owne elec-  
tion, it is good, then the lordes shall have the

and relief.

To, xxvi.

Value of the marriage of such heire when he com-  
meth to his full age. But yet if he marry when  
he is under age so in ward against the will of his  
guardian, then he shall pay the double value of  
the land of the guardian before mentioned.

Value of  
marriage.

And ye shall note, that if landes holden by  
knights serjeant descended to an infant or child  
within age from his mother or from any of his  
ancestours his father heire yet alyue, in this  
case the lord shall not have the marriage of his  
heire, for during the life of his father, the sonne  
shall be in ward to no man.

Double  
value of  
marriage.

Finally, it is to be knowne, that he to whom  
the ward is given in right, may after he hath  
leased the ward, graunt the same either by dede  
or without dede to an other man and than he  
to whom such a graunt is made is called guar-  
dian in lawe.

One  
shall not  
be ward  
during  
his fathers  
life.

Now as touching relief, ye shall knowe  
that if a man holdeth his land by knights ser-  
vice and dyeth his heire beinge of full age (if full  
age of the male is xii. yeres of the female, xiiii.)  
then the lord of whom the land is holden shall  
have of the heire relief.

Relief.

Now ye that al Erles baron or any other the  
kinges tenants holdynge of him in cheefe by  
knights service dye at the tyme of his deathe  
his heire be of full age that is to saye xii. yeres  
he ought to paye the olde relief for his inheri-  
tance that is the heire or heires of an Erle for  
an hole Erledome one hundred ponde. The  
heire or heires of a Barone for an hole baronie  
one hundred markes. The heire or heires of a  
knight one hundred shillings and he that hath  
less, shall give less accordyng to the olde cu-  
stome.

C.iii.

Item

### Seruyce of castell garde.

Some of fees, by the lawe is obserued of all other that holdeth of any other their lordes immediately by tenure.

Also a man may hold landes of a lord by two knyghtes fees, and then the heires being of full age at the death of his anncethours, shall paye to his lord for reliefe, 7. poundes.

### Seruyce of castell garde.

Y<sup>e</sup> That vnderstand that a man may holde by knyghtes seruyce and yet not holde by escuage, nor shall paye an escuage, for he may holde by castell garde, that is to saye by seruyce to kepe a towne or his lordes castell or some other place, vpon a reasonable warninge, when his lord heareth that enemyes w<sup>ch</sup> come or be all ready come into Englande.

Ground  
in the  
lawe.

This seruyce is also knyghtes seruyce, and by it they to it warde marriage and reliefe, as in al cases the common knyghtes seruyce both.

### Of grande sergentie.



There is also another kynde of knyghtes seruyce, which is called grande sergentie, that is where a man holdeth his landes or tenementes of the king by the seruyce as hee omed, in proper person to do, as to beare the baner of our foreraygne lord the kynge or his speare, or to conducte his hoste, or to be his marshall, or to be the semar, caruer, or butlar, at the feaste of the coronatpon, or to be one of the chamberlaines of the receypte of his eschequers or to doo other seruyces to the kynge in proper personne, as hee maye

# Of graunde.

fol. rrrvii.

Grande of seruage & lye, is called graunde ser-  
grautie, that is to say a great or hygh seruage,  
and the cause whye it is called, is because it is  
the most honorable and moste worthy seruaunt  
that is, for he that holdeth by estrange is not ap-  
pointed by his lord to doo anye other more  
speciall seruaunt then another is bounde that hol-  
deth by estrange, but he that holdeth by graunde ser-  
grautie, is bounde to do some speciall seruaunt to  
his lord.

the most  
hygh ser-  
uante.

¶ Also yf he that holdeth of the kynge by grande  
sergeantye dyeth, his heyre beinge of full age,  
than the heyre shall paye to the kynge for exche-  
quer not onely .x. s. as he that holdeth by estrange shall  
do, but moreover the cleere yearly value of those  
landes and tenementes which he so holdeth of the  
kynge by grande sergeantie.

Relief of  
tenants  
by grand  
sergeantie

¶ Furthermore yf that obserue that in the times  
of Scotlande some men holde of the kynge  
by cognage that is to say, by blowynge of an  
horne to thynnt to warne the men of the countrey  
when they hear that the Scottes or other theyr  
enemies be commynge or be already entred into  
England whiche seruage is also a kynde of grand  
sergeantie.

Causes  
of cognage.

¶ Grande sergeantie therefore is as much to say  
in Latyne, as *magnum seruitium*, that is to say,  
a great or hygh seruage, lyke as *petit sergeantie*  
is called *paruum seruitium*, that is to say a lye  
or small seruage.

Diffini-  
on of ser-  
grautie.

¶ But to reuerte agayne to the matter yee shall  
note yf any tenantie holdeth of any other lord  
than of the kynge by such seruage of cognage, than  
it is no graunde sergeantie but yet neuertheles it  
is hygher seruage, and draweth to it ward ma-  
riage

E.n.

Item  
Hole in  
the lane

Item  
amend  
duty to  
sinnage

Item  
sergeant  
is socage  
in effect

Item  
to no  
advice

### ¶ Petite Sergeantie.

eyeage and relife for this is a rule infallible that none can holde by graunde sergeantie but of the hynges owne maiestye.

**C**onynally it shal understad that all they which holde of the hynges by this seruyce called graunde sergeantie do holde of the hynges by knightes seruyce, and by vertue of this tenure the hynges shall haue of them used marriage and relife, but elcuage yet he shall not haue of them oncies they holde by elcuage of hym by expresse and speciall wordes.

### ¶ Petite Sergeantie.

**T**enant by Petite Sergeantie is he that holdeth his lande immediately of our soueraygne lord the hynges by this manner of seruyce to paie to the hynges yearly either a Bowe, a Spere, a Dagger, a payre of Gauntlets, a payre of Spores of Golde, a Shafte, or such other small thynges apperteynyng to the warre, and this seruyce is in effect but socage because that suche a tenant is not bounde by his tenure to go ne do anye thyng in his owne proper person touching the warre but onely to render and paye yearly certayn thynges to the hynges, as a man ought to paye a rent. Wherfore this seruyce of petite sergeantie is no knightes seruyce, but yet ye shall note, that a man can not holde neyther by petite sergeantie neyther by graunde sergeantie, but of the hynges onely.

### ¶ Homage auentresell.

**T**enant by homage auentresell is he which holdeth his lande of his lord by homage and both he & his assignours whole heire

**Homage amercessell.**

**To. recoll.**

he to have holden the same lands of the sayde  
lordes and of his successours time out of mind  
by homage and have done unto them homage  
and this is called homage amercessell, by rea-  
son of the longe continuance whiche hath bene  
by title of prescription as well concerninge  
the ternaunte in the bloude of the ternaunte, as  
concerninge the lordeshippe in the lordes. And  
this scruple of homage amercessell draweth un-  
to it warrantie (that is to saye) yt the lordes  
whiche is now in life hath once received the  
homage of his ternaunte, he ought to warrant  
the same ternaunt, whatt tyme so ever he shall be  
impleaded, or sued for such lands so holden of  
him by homage amercessell. And should set in lires  
of a shrover such scruple of homage amerc-  
essell draweth to yt acquittall, that is to saye, the  
lordes ought to acquitt the ternaunte against all  
other lordes that can demande any manner of  
services of the ternaunte. And should set in lires  
of a shrover yf in this case the ternaunt whiche  
holdeth by homage amercessell be impleaded of  
his landes, and bound or calleth his lordes  
to warrantie, who cometh in by proccesse and  
demaundeth of the ternaunte what he hath to  
owe him to the lordes, and the ternaunte  
sheweth how he and his successours, whose  
time he is, have holden his landes of him any of  
his successours time out of mynde, surely the  
lordes yf he can not denye this, and yf he hath re-  
ceived the homage of such a ternaunte is bounde  
by the lawe to warrant him his landes, so that yf  
the ternaunt lose his landes in default of the lordes  
time so called that is to saye called to warrantie,  
he shall recover agaynste him so much in  
value

**Warrant**  
is by  
cause of  
homage  
amerc-  
essell.

**acquittall,**

**Voucher.**

101  
102  
103

104  
105



**Disclaimers**

value of those landes and tenementes whiche  
the lord hadde at the tyme of calling to warraunt  
as anye tyme after. But if the lord neuer  
recyued the homage of his vassall, then he may  
take well when he as they wouche bysaynd  
in the lordshipp of feignorie and so put out the  
tenants of his warraunt. Where ye shall note  
that in euery case where the lord bysaynd is  
his feignorie in court of record, his feignorie  
or lordshipp is extende, and the tenant that hold  
from thensforth of the next lord to hym that  
dies withoute.

¶ Thus we perceive that homage anciently  
is not but where as is a large commendance, as  
well in the bloud of the king in respect of his  
tenants, as in the bloud of the lord in respect of  
his tenants. Therefore if the tenants die, they  
give always his lands to another, although he  
purchase the same again, yet he shall not hold  
any longer by homage anciently because of that  
commendance, but shall hold it now by the  
policy and accustomed homage.

12/15

sonant in  
shape of  
the lung.

Wymaz-  
leapn.

When one death hath the place of a hundred  
by marriage. Being in power, that as an  
eye in a body, his heirs being within age,  
the king (as before related) shall have  
the wards and custodes, as well of the lands as  
of the bodies that is to settle the marriage of the  
heir thereof. That if the heire be of full age at the  
time of the death of such auncient, yet that the  
king by his prerogative shall have the  
reason of all the lands, tenements and other

hereditamentes whereof such his tenants was  
 leased in his demene as of fee. And if such an  
 heir, wyl entre into his landes when he cometh  
 into his full age before he sue his livery  
 and receive his fee by the kinge no free holdes shal  
 be extorted nor growe into him, but he shall be de-  
 clared an intruder in the kinges possession, and  
 if he dye so leased in the meane tyme, his  
 heirs shall have no doynry of such landes, wher-  
 fore it behooveth in any tyme that such heirs of  
 full age as female comynge to full age before he  
 do the entre into theire landes to sue livery. The  
 manner and forme wherof accordinge to the acte  
 of parliaments lately promulgated and let forth  
 I intende hartely to recorde.

Intruder  
 of the kin-  
 ges posses-  
 sion.

Whome heires ought to sue their livery.

enacted xxiii. Henric. viii.

Cap. xiii.



Whome heires ought to sue their livery.  
 Of persons or persones havinge  
 landes or tenementes above the  
 pecy value of .x. li. shall have  
 livery before inquisition or  
 othe founde before the chancery  
 or other commission, by vertue of  
 the kinges writte of diem clausit extremum or com-  
 mission directed out of the chancery or other  
 court havinge authority to make such writte  
 or commissions, whiche shall not passe out of the  
 court but by warrant or bill assigned and subseri-  
 bed by the master of the wardes or justice the  
 Chancery attornei a remembrance of the said court  
 or in case of one of them to be directed and deli-  
 vered to the Chancery of Englande or to any  
 other

Writ of  
 diem claus  
 sit extre-  
 mum.

Whiche the iustice or officer hath power to as-  
warde such writtes, and for the writtynge and  
sealinge of the same shalbe payed of the occassions  
and fees. But of the landes excide not the full  
verie value of .v. s. then they shal pay for the writte  
of alleys such writt or commissioun. vi. s. for the  
writtynge. vi. pence and not above.

And the Inquiditions and offices hercof  
non forinde shalbe returned by the sayde exche-  
quer or commissiouners in to the same court  
thence whense the writte or commissioun was as-  
warded, to be done, the clerkes of the petre  
house shal receyve the same officers and make  
a transcrippte thereof to the sayde chappeler of the  
wardes and liueries. And then the sayde maister  
and the Currouer attourney and general excep-  
tior, or .iii. of them in stead of the maister or Cur-  
riour to be one, shal condeuntre and indente  
with suche personnes for the liuerie of the cas-  
tles, manours, lordshippes, landes tenementes  
and hereditamentes transcribed or not transcribed  
in this office, and shal make and set the rate  
and price of the same, and appoynte the dayes  
of payment thereof by obligation to be taken for  
the same to the henge.

And every bell for any Overpall or generall  
liuerie assigned by the handes of the sayde chas-  
tler, Currouer, attourney, exceptior or .iii. of  
them, wherof the maister or Currouer to be one  
shalbe warrant sufficient to the Roide Chastler  
or other officer having power to passe the  
liuerie under any of the henges scales without  
doubte. In which case the clerkes of the petre  
house or other clerkes by whom the liueries  
be written shal receyve as well for the liuerie as  
for

200  
and 10  
100  
100

100  
100  
100  
100

for other such fees as hath bene accustomed.

¶ Item every person maye sue at his pleasure a generall liverye for anye manours, landes, tenementes, rents, reversions, remainders, or other hereditamentes wherof the cleare yearly value shall not exceede xx. li. Provided that an assise be therof founde and a warrantie by the sherriffe of the sayde county and others as is accustomed.

¶ And where such generall liverye is made, if the landes exceede the yearly value of. v. li. they shall pay for the feele. xx. s. iii. d. and all other fees accustomed as afterwards shall be declared. But if they exceede not the yearly value of. v. li. they shall paye but their fees followinge that is to saye, for the teste of the liverye. xii. d. To the clerke of the pipe. viij. s. for the writtinge and the mrollyng. xx. d. For the respce of the hoage in the Chamber. vij. s. To the lordes great Chamberlaine. xij. s. To the lordes of the Rolles. x. s. And to the clerke of the liverye for the warrant and mrollyng of the liverye. xx. d.

¶ Item no person or persons shall paye in these shire or anye other counties for the respce of liverye for any landes or hereditamentes nor for writtinge the yearly value of. v. li. above. viii. s. And for the entering thereof and warrant of assise above. iiii. s.

¶ And the value of such landes and hereditamentes exceedinge the yearly value of. xli. poundes, shalbe taken as it is lymitted in the assise bookes and other excepts by the examinations and certifiat of the sayde magister liverye, sherriffe, and sherriffes, or the clerke of the shire, or otherwys

Generall  
liverye.

to wit  
xxij. s. iii. d.

Receipt  
of hoage.

# Of Inquests.

otherwise appears and be declared in any of the  
hinges courts.

## Deane of Conscience

Also no Escheator shall take any by  
virtue of his office for inquisition of the tenure  
title or value of any landes or other heredita-  
mentes holden of the kyngs herite of the yearly  
value of .v. li. or above without the kynges  
writte to him directed upon payne to forfeite  
.v. li. for every tyme he shall so do. And he shall  
be take for the findyng of any office of landes  
not exceeding the yearly value of .v. li. above .xv.  
s. that is to saye .vi. s. viii. d. for his owne fee.  
And .iii. s. viii. d. for writyng of the office.

## Fees of an office.

And for the charges of the writ .iii. s. And  
for the officers that shall receive the offices in  
any court of recorde .ii. s. upon payne that the  
eschator doo not otherwise shall for every tyme  
forfeite .v. li. And upon the payne the officers  
of every court of recorde where such inquisi-  
tions shalbe returned, beynge sworn unto them  
within one moneth next after the findyng thereof  
of shal receive them. The one moiety of all whiche  
forfeitures to the kyng, and the other to the party  
he that shall sue for the same.

And they which hereafter shalbe tituled to  
sue by writte whole landes and tenementes and  
the not the yearly value of .v. li. may lawfully  
sue forth their generall inquest by warrant had  
from the said court as is above said, although  
none other inquisition be therof had nor charge  
find, payinge nevertheless the fees before com-  
manded.

And finally every person shall sue for the same  
sent for his inquest within the moneth next  
after the assignment of his writ, or else he shall  
forfeite.

signes to be voyde and of none effecte.

**¶** Hereafter ensueth the fees accustomed of the generall liveryes.

**¶** As to the clerkes of the petty bagge for the respects of homage and sealthe the wrytyngs and inrollynges. xliii. s. ii. d. To the lorde greates Chamberlayne. xl. s. To the mayster of the rolles. iii. li. To the clerkes of the liveryes for wrytyngs of the indentures and obligatyonis. xi. s. besyde counsell.

**¶** The fees of the liveryes accustomed to be payde be these followinge that is to saye for the Signet. iii. li. s. for the pteue seal. xxx. s. for the greates seal. xliii. s. vii. d. To the clerkes of the petty bagge. xl. s. To the mayster of the liveryes clerke. xl. s. for the inrollement of the knowledge of the indenture. xii. s. To the lorde greates chamberlayne of Englands. xl. s. for his of allowaunce for the same liverye. x. s. vi. d.

**¶** And note yet that sometyme in especiall cases the fee be more and sometyme lesse as the case and matter both requyre.

**¶** Hitherto have we briefly touched all kindes of knyghtes services and charges incident to the same. Nowe will we with lyke breifnes declare thother kindes of services whiche comonly be cōpyled under the generall name of Scutage. For everye lande or tenementes wher it is holden by knyghtes service, or elles it is of Scutage tenure or at the leaste waye of the nature of Scutage tenure whiche in effecte is all one.

**¶** Wherfore first we shall define what Scutage is in the proper signification, whiche done we shall perleve the other kindes of Scutage whiche be of the nature of Scutage tenure.

What so  
cage in te  
nure is.



Deage is properly where the ten-  
nante is bounde to come with  
his plow, that is with his plows  
to eare and some parcel of the de-  
meane landes of his lord which  
seruyce in auncient tyme was ves-  
tye common, but now by the mutuall consente  
boith of the lord and of the tenant it is con-  
uerted for the moste parte into a yearly rente.  
Howbeit the name of socage abideth still. Wherof  
for nowe all that is not knightly seruyce is cal-  
led by the name of socage.

¶ So that yf a man holdeth by fealtye onely or  
by fealtye and homage for all maner of seruyce, it  
is but socage tenure, for homage alone maketh  
not knightly seruyce, yea yf a man holdeth by es-  
cuage certayne, as I have sayd heretofore, he hold-  
eth in effeete but by socage.

¶ Nowe where a man holdeth his landes by  
socage and dyeth, his heire beginne within the age  
of. xiii. yeres, the lord shall not haue the ward-  
but the nexte of kynne to the heire to whome the  
heritage came not by descende shall haue the rule  
and wardshyppe as well of the lande as of the  
heire, till the heire come to the age of. xiii. yea-  
res, and such tutor or guardian is called gard-  
dayne in socage, and shal render accomptes to the  
heire of the yllur and profytes that hee hath  
receyued of the landes duringe suche tyme, de-  
ductyng his reasonable costes and expences,  
so that hee shall not haue the wardshyp to his  
owne use and profyte as the Lord whiche is  
gardayne in chivalry hath. And in case the gar-  
dayne in socage dyeth before he hath made his  
acompte the heire is withoute remedye by cause

Garden  
in socage.



no writ of accompte, lyeth agaynst the exccutors but for the kyng onely.

**C** Finally per shall vnderstande that when tenaunte in socage dyeth, the Loide of whome the lande is holde shall haue relrefe, that is to saye, the value of the rent that is perely due vnto hym of the tenauncy, besyde the perely rente, so that in effecte after the death of his tenaunte he shall haue of the heyne. ii. rentes same that for the relrefe, he maye distrayne forthewith, but for the accustomed rente he can not distrayne tyll the usual day of payement be come.

Rentes

distraint

**C** Franche alimoyne.



Enaunt in franche alimoyne that is to saye, in free almes is where a Byschoppe, Deane, or any othre ecclesiastycall personne holdeth of his Loide in pure and perpetual almes and such tenure

began fyrst in olde tyme, after this maner. When a man was seales in auncyent tyme of certayne landes or tenementes in his demeane as of fee, and of the same tenementes enfeofed an Abbot, and his couente or a Bysop and his couente, or anye other personne ecclesiastycall, as a Deane or a Colledge Master of an hospitall, or suche like to haue and to holde the same landes so them and to their successours for ever in pure and perpetual almes, or in franche almes, in these two cases the tenementes shulde be holden in franche alimoyne.

**C** By force of whiche tenure they that holde in franche alimoyne after this sorte be bounde of

The first  
foundaci  
on of  
franche  
alimoyne.

# Frankel almoyne.

ryght before god to make orisons and praye to  
celebrate masses and to do other dyuyns scrupes  
for the soules of their graunters and scoffes and  
for the soules of their heires whiche be dead and  
for the prosperous estate of their heires that be  
nowe alpye. And because of ryght they be bound  
to this dyuyn scrupre they be discharged by  
the lawe to do anye other prophane or corporall  
scrupre, as fealtye or suche other lyke.

Tenant  
in franke  
almoyne  
shall do  
no fealtye

¶ But neuerthelesse yf suche as holde theise tes-  
timonies in franke almoyne do omitt and leaue  
vndone these dyuyn scrupes wherunto they  
be bounde before god, the lord can not dystreins  
them ne yet compell them by any other meanes  
by the course of the common lawe, but the ones-  
ly remedy is to complayne of them to their or-  
dynary who of ryght ought to compell suche ec-  
clesiastycall persones to do the dyuyn scrupes  
due as aforesaide.

Tenant  
by dy-  
uyn scr-  
upre.

Distresse  
for dy-  
uyn scr-  
upre.

¶ But here ye shall note that yf a persone of  
a church or any other ecclesiastycall persone  
holdeth of his lord by certayne diuyn scrupes  
to be done, as to syng masse euery frydaye  
in the weke. Or plachbo and dyasse, or to fynde  
a pyest to syng masse, or to distribute in almes  
x pennis to a hundred men at suche a daye in all  
these cases yf suche dyuyn scrupre be vndone,  
the lord maye very well dystrayne, because the  
scrupre is put here in certayne.

¶ Nowe I sayde that yf in olde tyme a man  
had enfeoffe suche ecclesiastycal person after suche  
loyte, he shoulde holde his landes in franke al-  
moyne, but at this daye it is otherwys, for by  
the reason of a statute called. Quia emptores  
terrarum, welsh, iii. cap. i. No man can alyene

to graunte landes or tenementes in fee simple to holde of hym selfe, so that nowe yf a man be yuge. Censed of landes in fee simple graunte the same by lycence to an ecclesiastycall personne in franche almyne these wordes franche almyne bes voyde, and the ecclesiastycall person shall holde them immediatly of the lord of the feoffor by the same scrupes that the feoffor helde, so that no manne can holde in franche almyne but by force of a graunte made before the sayde statute, onely the kynges maiestie excepted, for he is out of the compasse of the statute.

¶ Finally, ye shall note that whers as a man holdeth in franche almyne, his lord is bounde by the lawe to acquyte hym of all maner of service that any other lord can haue or demaunde out of the sayde landes.

¶ That yf he dothe not acquyte hym but suffer hym to be distreyned, then he shal haue agaynst his lord a certayne wytte, called a wytt of meane, and shal recouer agaynst him his damages and costes of his sute.

Witte  
meane.

## Of burgage.

**A** Tenure in burgage, is where an ancient borough is, of whiche the kyng is lord, and the which have tenementes within the same borough hold the same of the kyng payinge a certayne pecely rente, whiche tenure, in effecte is but socage tenure. A yetherwise it is, where as any other lord spiritual or temporal is lord of suche borough.

Socage  
tenure.

¶ Here ye shall note that for the mooste parte suche ancient boroughes and towne have bynne customes and vntages whiche other townes have.

Customs

## Of burgage.

have not. For some boroughes have a custome that the yongest sonne shall inherite before the eldest, whiche custome is called comble borough Englyshe.

**Dower  
by custo-  
me.**

**I** Also in some borough by the custome the woman shall have for her dower all the landes and tenementes wherof her husbände was seased at any tyme duringe h<sup>e</sup> matrimony and coverture.

**Bequest  
by custo-  
me of  
borough**

**I** Whosoever in some boroughes a man may bequeathe and devise hys landes or tenementes by testament at the tyme of hys deathe, and by force of suche devise or legacy, he to whome the bequeste is made, after the deathe of the testator whiche made suche testament may by force of this auncient custome entre into the landes so to hym bequethed or devised withoute any livery of seassone to him made or further ceremony of lawe.

**I** Howsoever howe and in what maner a man may at this tyme devise hys landes by hys laste will and testament by force of a certayne newe statute it shalbe hereafter declared.

**I** Wyuers other customes in Englande there be contrarie to the course of the common lawe whiche yf they be any thyng prouable and maye stande with reason are good and effectuell, notwithstandinge they be agaynst the comon lawe.

**I** And note that no custome ys allowable but suche custome as hath be used by tyme of prescripcion or tyme oute of mynde.

## Of villenage or bonde service.

**T**enante in villenage is properly whan a villayne, that is to saye, a bondman holdeth of hys lord, whose bondman

he is, certayne landes by tenement, accordinge  
to the custome of the manoure, or otherwys  
at the wyll of his Lorde, and do to his Lorde  
villayne service, as for to beare and to carie  
the donge of his Lordes oute of the Wyke, or  
out of his lordes spanour, and it is saye upon  
the demaie landes of his lorde, or to do such  
lyke service and villayne service. Nowe be it  
for men in some places holde theyr tenementes  
and landes of theyr lordes by custome, by such  
sorte of service, and their tenure is called te-  
nure in villenage, and yet they them selves be  
no villaynes ne of servyle condicion but fre men  
for the lande holden in villenage maketh not  
tenant a villayne, but contrary wyse a villaine  
may make free lande to be villayne lande with  
his Lorde. As if a villayne purchaseth lande in  
fee simple or fee taylor, the lorde of the vil-  
layne may entre into the lande so purchased by  
his bondman and put him and his heires out for  
ever, and this done, the lorde of the wyke may lease  
the same lande to his villayne to holde of hym  
in villenage.

¶ And here yet shall vnderstande, that seruy-  
tute or villenage ys the ordynance, not of the  
lawe of nature but of that lawe, which is called  
Jus gentium, by which a man ys made subiecte  
contrary to nature, unto an other mans domini-  
on. For he that is a villayne or bondman,  
either he is so by title of prescription, that is  
to saye, he and his auncestours have bene vil-  
laynes tyme out of mynde, or els he ys a vil-  
layne by his owne confesson in court of re-  
corde, so that all villaynes either they be borne  
villaynes or elles they be made so. They be

Howe  
somme  
holde in  
villenage  
the no  
villayns

division

### Of villaynes

hoine villaynes when their father being a bonde  
manne hym selfe begeth them in lawfull wedde  
locke, eyther of a free woman as of a bonde wo  
man for so that the father be bounde, the yssue of  
hym lawfully begotten must nedes be bounde by  
the lawes of Englands, hauing no regards to the  
condicion of the mother, where as in the cyuill  
lawe of the Romaynes it is cleane contrary. For  
there, *partus sequitur ventrem* that is to say: the  
scripture of bondage of the mother maketh the  
chylde bounde, and not the bondage of the fa  
ther. Nowbeit the bastarde sonne of a bonde  
man shall not bee bounde, and the reason is be  
cause a bastard is, *Nullius filius* in the law, that  
is to saye no manes sonne.

**Bastard.**

**¶** They be made bondemen or villaynes twoo  
wayes, eyther by theyr owne proper acte, as when  
a free person being of full age will come into a  
court of record, & there confesse hym selfe bonde  
to another man.

**¶** Or elles by the lawes of armes called, *Ius  
gentium* as when a manne is taken prisoner in  
warres, and is compelled to serue and become  
the thrall and bondeman of hym that toke hym,  
the lawe calleth suche person a villaine: that is to  
saye a slave and thrall.

**Distinc  
tion of  
villanie.**

**¶** And ye shall note that villaynes be proper  
ly called in Latyn *serui*, because that when they  
be taken in warre, the captaynes be wont not to  
kylle theym, but to sell them, and so to saue thei  
r lues so that they be called *serui* a *seruando*, that  
is to saye of longynge. They be also called *Manu  
cipia*, a *manu capiendo*, because that they be tak  
en by hande and power of their ennemys.

**¶** Nowe as I sayde by the lawe of nature,

of bounde seruitur.

Fol. xlv.

There are all borne free, but after that by the lawe of Gentilitie, scrupitide of bondage bydde welle and invade the worlde, that ensued the benes fyte of manumission. Manumission is quash by manudacio, that is to save a geupnge oute of the hande of power. For so longe as a manne is in bondage and scrupitute, he is subiecte to the hande and power of another, and when hee is manumitted he is made free, and deliucted from the sayde power, soo that a manumission is no thyng elles then an enfranchysment that is to save, a wyrtynge testifyinge that the Lorde hath enfranchysed his vyllayne and all his of. Cpyng and sequell.

Manu-  
mission.

Also yf the lorde maketh to his bondeman an obligation of a certaine sum of money or graunteth to hym by his deede an annuite or yearly penyson, or leaseth to hym by deede landes or tenementes for terme of yeres, any of these actes do implie an enfranchysment.

what res-  
tes ma-  
keth ma-  
numissio  
in lawe.

Also yf the Lorde maketh a scoffe-  
ment to his vyllayne, and maketh vnto hym  
hyuerpe of sealyng, this also is an enfranchysment  
and secrete manumission. Wysely to speake,  
where so ever the Lorde compelleth his vyllayne  
by the course of the lawe to do that thyng that  
he myghte otherwyse enforce hym to doo or to  
suffer without the auctoritie and compulsion  
of the lawe he doth by implication enfranchyse  
his vyllayne, as yf the Lorde wyl byngne a  
gavynge his vyllayne an action of det, an action  
of accompte, of covenant or of trespass, these and  
suche lyke be in the eye of the lawe enfranchyse-  
mentes and manumissions, because that the lord  
in all these cases maye have the effecte and pur-  
pose

Cause of  
infranchy-  
sement

f.v.

pose



posse of hys suite (that is to saye) the goodes and  
aile, and correction of hys bondeman without  
compulsion of that lawe even by his owne proper  
power and auctoritie whiche he hathe vpon hys  
villayne. But yf the Lorde dothe sue his vyl-  
layne by an appeale of felonye, the villayne be-  
ynge lawfully endyted of the same before there  
is no tacite manumission or infraunchilment,  
for the Lorde thowge he haue power to beate  
hys villayne and to spoyle hym of hys goodes  
yet he can not by the lawe of this realme put him  
to deathe.

**I**tem shall also vnderstande, that yf a maner  
bondeman purchased landes or acquyte and ges  
vnto hym any other thyng the Lorde may forth  
with entee and cease the same into hys owne  
handes. Wherefore yf the lorde will bynge a-  
gaynste hys villayne a precept quod reddat, by  
whiche he demaundeth against his villaine any  
landes or tenementes, this implieth an infra-  
chilment, forasmuche as he byndeth hym selfe  
to the prescripte and auctoritie of the lawe where  
as he might vse his owne auctoritie, by entering  
and seasinge the sayde landes.

**F**ynally ye shall marke that some villaynes  
be called villaynes in grosse, and other some  
be called villaynes regardant. In grosse be  
they of whiche the lorde is severall leased, and  
not by reason of anye lordeshyppe, or maner bus  
they be called regardant whiche do belonge to  
a manour or whiche the Lorde is leased, and  
the sayde vileaynes haue bene regardant, that  
is to saye, expectant and attendant tyme oure  
of mynde to the Lorde of the sayde Manour in  
downg vnto hym suche seruices as to a vyl-  
layne

Distinc.

Villayne  
in grosse

Villayne  
regardant.

same appertayneth.

Of auncient demene.

**T**here is also a certayne kynde of tenure whiche is called auncient demene; & that tenauntes whiche holde by thys scrupce be free holders and by charter & not by co:py or courts rolle, or by the verge after the custome of the manour at the will of the lord. And these tenauntes be such as holde of those Manours whiche were saynte Edwardes the kynges or whiche were in the handes of kinge Wylm the conquerer, and these Manours be called the auncient demesnes of the king or the auncient demesnes of the crowne of Englande. And to such tenauntes whiche holde of such manours be many and dyvers liberties gūen and graunted by the lawe, as to be quyte of rolle and passage & such lyke impositions whiche be demaunded of men for their goodes and catels sould or bought in faires and markets by them also to be quyte and free of tace and talage graunted by parliament, excepte that the kinges maiestye do take auncient demene (as to hym onely appertayneth) whan he thynketh good for greate and vegente consideratyons. Tenauntes also of auncient demene ought to be quyte of paymentes to the expences and charges of the knyghtes whiche come to the parliament, also they ought not to be in panelled nor put in suries and inquestes in the country out of their manour or seignorie of auncient demene for the landes whiche they holde of such manour, onles they haue other landes of the common lawe for whiche they ought to be charged. And of such tenauntes or any of them whiche

Writ of  
monstra-  
uerunt,

Frank-  
fee.

Abate-  
mente of  
writs.

### Of auncient demeane.

Whiche holde of the Manours of aunciente, des-  
meane be distrayned to do vnto theyr lord other  
seruyces or customes then they or theyr aunces-  
trours haue used to do, then may they sue a cer-  
taine writte called Monstrauerunt directed to  
the lord, commaunding him that he distrayne them  
not for to do other seruyces or customes then they  
haue byn accustomed to do.

And for further knowledge hereof ye shal un-  
derstande that in the Escheour there is a booke  
called Domesday whiche booke was made in the  
tyme of the sayde sayncte Edward. And all the  
landes whiche were in the seylshyn and in the han-  
des of the sayde sayncte Edward at the tyme of  
the makynge of the sayde booke be auncient de-  
meane. But the landes which then were in other  
mens handes though they be written in the sayde  
booke, be franke fee and no auncient demeane.

Finally it is to be noted, that tenants of  
auncient demeane shal not be impleaded for their  
sayde landes oute of the manour whereof they so  
holde, and yf they be, they maye shewe the mat-  
ter and abate the writte. But yf they ones an-  
swere to the writte, and iudgement giuen, then  
the landes haue loste the nature and benefytte of  
auncient demeane, and are become frache fee, that  
is to saye, pleadable at the common law for euer  
more. And thus haue we spoken of the diuersyte  
of tenures.

### Of rentes.

Forasmuche as vppon every tenure there  
is commonly reserved one rent or other ther-  
fore I thinke it good somewhat to treat of  
rentes. But ye must understande that there

# Of rentes.

Fol. clxv.

Be stande forsoke of rentes. There is one kinde  
of rent whiche is called rent-ferme. An other  
whiche is called thynge and the thynge whiche  
is named in frenche rent seckle, that is to saye in  
latyn redditus factus, a dyne rent. Howe rente  
service is so called because it is knyght to the fe-  
rme and is as it were a service whereby a man  
holdeth his landes or tenementes, or at the lesse  
waie when the rentes vnseuerably coupled & knit  
with the ferme, as for an example, where the  
tenant holdeth his lande of the kinge or of anye  
other lord by fealtye and by certayne rente or by  
homage, fealtye and certayne rente, or by anye of  
these sortes of services and by certayne rente, this  
rent is called rent-ferme. And here ye shall note  
that if this rent service be at any tyme when it  
ought to be payde, delayde and vnpayde, the  
Lorde of whom the lande or tenement is so hol-  
den, whethere it be in fee simple, fee taylor for  
terme of yere, for yeares or at will, may of com-  
mon righte enterre and distraine for the rente,  
though there be no mention at all, ne cause of  
distresse put in the dede or lease. I saide before  
that the nature of this rent service is to be cou-  
pled and knyght to the tenure. For where no te-  
nure is there can be no rente ferme. And there-  
fore if at this daye I be seised of landes of fee  
simple, and make a dede of feoffment of the  
same to any other in fee simple reseruyng by the  
same dede a rente, this can be called no rente fer-  
me, because there can be nowe no tenure be-  
twene the feoffour and the feoffee. Otherwise  
it is of feoffmentes in fee simple, made before  
the statute of Westminster the thirde. Cap. i. cal-  
led *Quia emptoribus terrarum*. For before that  
kinge

Distinction  
of rents  
service.

Distresse  
of com-  
mons  
right.

hynge of that statute, yf a man had made a feoffment in fee simple, reseruyng to hym a certayne rente, yet though it had bene without dede here had bene begonne and created a newe tenure betwene the lessour and the lessee, and the lessee shoulde haue holden of the lessour, who by vertue of the same myght of common right haue distrayned for suche rent. But at this day by force of the sayde acte, there canne be no suche holdyng or tenure created or begonne, and consequently no rente seruyce canne bee at this daye reserued vpon any gyfte in fee simple, excepte it be in the hynge case, who beyng chiefe lord of all, euery myght and may geue landes to be holden of hym. Thus ye see, that at this day, no subiecte can reserue any rente seruyce vnto hym onlesse the reuertion of the landes or tenementes that he shall graunt, be still in hym, as where he graunteth them in fee taylor, or maketh but a lease for terme of yere, or for certayne yeares or elles at wyll. For in al these cases the reuertion of the fee simple remaineth still in hym, and therefore yf here be any rente reserued, it is to be called a rent seeruyce, and is of common right distrainable though there be no clause of distresse in the dede of feoffment or lease.

¶ But here ye wyll aske me, when in the case before remembred, a manne at this daye geueth cleane awaye the lande or tenement from hym selfe in fee simple, so that there is no maner of reuertion of the same remainyng in hym at all and yet neuerthelesse reserueth vnto hym by his dede a certayne rente what maner rent shall this be called? I answer, yf there be in the dede indented any clause of distresse, that is, that yf the

rente be behynde unpayed, it shalbe lawfull for the lessour to entre and to distrayne, it is called a rente charge, forasmuche as the lande is charged therewith, but howe of common right no, but onely by vertue and force of the writinge.

Rente charge.

But on the other side, if there be no such clause of distresse put in the indenture, then the rente so reserved shalbe called a rent secke.

Rente secke.

**A** pheyse of a manne that is leased of re-  
tayne landes, wyl graunte eyther by indenture  
or by his dede polle that is to saye syngle and not  
indented, a pecy rente out of the same landes to  
another whether it bee in fee simple, fee tayle,  
for terme of yere, for yeres or at wyl, with clause  
of distresse, then this rent is called a rent charge  
and he to whom such rente is graunted may for  
defaute of paymente thereof, entre and distrayne.  
But contrarely yf the graunte be made without  
any such clause of distresse, it is called, rent secke  
that is to saye a bare rente, because he cannot  
come to it in case it bee damped, by waye of dy-  
stress in so muche that yf he were neuer fraised  
of it, he is by the couste of the common law with  
out remedye. Otherwyse it is of a rente charge  
for here he to whome the graunte is made when  
the rente is behynde, maye chose whether he wyl  
sue a writte of annuities agaynst the grauntour  
or distrayne for the rente behynde, and retaine the  
distresse till tyme he be payed accordyngely. But  
he cannot have bothe remedies together but  
muste take hym to the one, for yf he ones reco-  
uer by a writte of annuities, then is the lande dis-  
charged. And yf he sue not his writte of an-  
nuities, but distrayne for the arrears, and the  
defaunte such a repleyn, where upon the other  
answereth

Annuitie

Repleyn

knoweth the takinge of the distress in court  
of recorde then is the lande charged and the per-  
son of the grauntoure discharged of the action  
of annuities.

**Exempel**

**Prouiso.**

**C**pe shall also vnderstande, that yf a man will  
that an other shall haue a rente charge comynge  
out of hys lande, and yet will not that his per-  
son shall by anye meanes charged by writ of an-  
nuities, he may then haue such clause in the end  
of his dede. *Prouiso et presens scriptum, nec  
quicquam in eo contentum villo pacto se extendat  
ad onerandam personam meam per breue seu ac-  
tionem de annuitate, sed tantummodo valeat  
ad onerandum terras, fundos et tenementa mea  
de antiquo redditu predicto.* If this or such like  
clause be added, then the lande is charged and  
the person of the grauntour is discharged.

**A**lso yf a man will make a dede of graunte  
in this wyse, that yf John at Hile be not peare  
by payre at the feaste of Mychaelmas for terme of  
hys lyfe, ex. shylinges sterlyng, that then it shalbe  
lawfull for the saide John at Hile to distraine  
for it in the Manoure of Wale; this is a good  
rente charge because the Manoure ys charged  
with the rent by the waie of distresse, and yet not  
with theles in this case the persone of him y made  
suche dede is discharged of any action of annuities  
inasmuche as he graunted not by his dede any  
annuities to the sayde John at Hile but only  
graunted, y he myght distraine for suche peny.

**F**urthermore yee shall note, that yf a man  
haue rent charge to hym and to hys heires com-  
ynge out of certayne landes, and dothe pur-  
chase any parcell of thys landes to hym and to  
hys heires, in this case the hole rente charge is  
quenched

quenched and gone, and the annuities, also the  
cause is this, that a rente charge can not be in  
suche case apporcioned. Otherwise it is of a  
rente seruyce, as for example yf one whych hath  
a rente seruyce, of .xx. d. by yere, dothe purchase  
parcell of the lande out of whiche this yere  
rente of .xx. d. is commynge this shall not ex-  
gryue or browne the hole rente, but for that par-  
cell onely. For rente seruyce in suche case maye  
verre well be apporcioned and rated ac-  
cordinge to the value of the lande. yet there be  
sortes of rentes seruyces whiche in no wyse can  
bee apporcioned. As where a tenaunte holdeth  
his lande of his lord by the seruyce to render  
to his lord yearly at such a feast, an horse, a  
ryng of golde, a redde rose, a gyluer or suche  
lyke, yf in this case the lord dothe purchase par-  
cell of the lande thus of hym holden, this ser-  
uyce is gone, bycause suche seruyce, can not be se-  
uered and apporcioned. All escuage is a seruyce  
that maye verre well be apporcioned accordinge  
to the assurance and rate of the lande.

Exten-  
guishment

rente ser-  
uyce can  
not be ap-  
porcion-  
ned.

But where anye lande is holden by homage  
and fealtye, yf the lord purchaseth parcell of  
the lande, yet he shall haue his homage and fe-  
altye styl of his tennant.

ye shall marke also, that yf a man maketh  
a lease of landes to another for terme of lyfe,  
reseruyng to hym certayne rente, yf in this case  
he graunteth that rente to John at Style la-  
vinge to hym selfe the reuerlyon of the lande  
this rent ys but rente secke because John  
at Style that hath the rente, hath no lyvinge in  
reuerlyon of the lande.

But yf he graunteth the reuerlyon of the lande



# Of rentes.

**Atturments.**

**Rente is  
incidente  
to a re-  
uerſion**

to John at Roke for the terme of lyfe, and the tenaunte atturmenth accordynglye, then hath John at Roke the rent as rente ſeruyce becauſe he hath the reuerſion for terme of lyfe.

**A**lſo wher it is, yf a man geueth landes or tenementes in tiple, reſeruyng to him and to his heires certayne rente, or maketh a leaſe of the lande for terme of lyfe, reſeruyng certayne rente yf he graunteth the reuerſion to another and the tenaunte atturmenth accordyngly, the hole rente and ſeruyce ſhall paſſe by thys woorde reuerſion becauſe the rente and ſeruyce in ſuch caſe be incident to the reuerſion and do paſſe by the graunt of the reuerſion. But if he had graunted the rente onely, the reuerſion had not paſſed.

**What remedye a man hath to  
recouer his rente when it  
is behynde.**

**I** ſhewed you before, that for a rente ſeruyce yf it bee behynde, ye maye deſtayne in the grounde euen of common righte though there be no ſuche claue of deſtreſſe mentyoned in the dede of ſcoffemente, graunte or leaſe. Alſo for a rente charge ye maye deſtayne or hyng your wyttie or annuſtye at your choiſe and election as before is declared. But of a rente ſeche if ye were neuer ſepled of it nor of any parcell thereof, ye be withoute remedye by coure of the common lawe, for ye can not deſtayne for it, nor yet hyng your wytt of annuſtye but if ye were ones ſepled of it or of parcell thereof & it is ſciſones behynde, then your remedye ſhalbe this.

ye muste goe either by your selfe or by your be-  
 liove to the lande or tenement out of whiche the  
 rente is commynge and there demaunde the arre-  
 wages of the rente, whiche yf the tenants denye  
 to paye this demaund is disseisin of the rente. Also  
 yf the tenants be not then readye to paye it, this  
 countenaileth a demaund, whiche is a dysseisin.  
 Moreover yf neither the tenants nor none o-  
 ther man be remaynyng upon the grounde to  
 paye the rente, when yee demaunde the arre-  
 wages, this also is a disseisin in the lawe, and is  
 in verpe dede a dysseisin. And of these dysseis-  
 nes ye maye have an assyse of nouell disseisin a-  
 gainste the tenants, and shall recouer leisin of  
 the rent and the arrerages and your damages and  
 costes of your writte and of your plee. And yf  
 after such recouerie and execution had, the rente  
 be agayne at another tyme denied you, then ye  
 maye have redysseisin and shall recouer your  
 double damages.

Disseisin  
 of rents  
 seche.

Assyse.  
 In redys-  
 sein dou-  
 ble dama-  
 ges.

It shalbe therefore wysedome for a man when  
 a rente is graunted by anye personne unto hym  
 to take of the tenants of the landen penny of  
 an halfe penny in name of leisin of the rente and  
 then yf at y nexte daye of payement the rent be de-  
 nied hym, he maye have an assyse of nouell disseisin.  
 And yee shall note, that there be thre causes  
 of disseisin of rente leuiee, that is to wite res-  
 coure, repleyn, and incloser. Rescoure as when  
 the lord upon the lande holden of hym dysstra-  
 neth for his rente behynde, and the distress be  
 rescoued from hym, or yf the lord come upon the  
 lande and will dysstrayne, and the tenant or any  
 other man for hym wyll not suffice hym, this is  
 called Rescoure.

thre causes  
 of dis-  
 seisin of  
 rent leu-  
 ied.

Rescoure.

¶ ii.

Repleyn

## Of rentes.

**R**epleyn is, when the lord hath distrained, and repleyn is made of the distress by writte or by plainte. Encloser is where landes or tenementes be so enclosed that the lord can not come into the landes or tenementes for to distrayne. And the chiefe cause why suche thynges so made by disseisin to the lord is for as muche as the lord is by this waye disturbed of the meane and remedy wherby he ought to come and haue hys rent that is to wete, by distress.

**F**oure causes of disseisin of a rent charge, that is to wete, rescous, repleyn encloser and denyer. For denyer or denyall is as well a disseisin of a rent charge as it is of rent seck. Finally ye shall understande that there be two causes of disseisin of a rent seck, that is denyall and encloser.

**A**nd yet someth that there is yet another cause of disseisin of all the thre rentes afore sayde that is to wete this, when the lord cometh to the lande holden of hym, or when he that hath a rent charge or a rent seck cometh to the lande to distrayne for the rent behynde, and the tenant hearynge this, encountreth hym, and forskaleth hym the waye with force and armes and maketh hym in such sorte as he dare not come to the grounde for to distrayne for hys rent behynde for feare of deathe or mutilation of his membres: this is a disseisin because the party is disturbed of hys manne and lawefull remedy wherby he ought to come to hys rent.

**F**inally ye shall obserue and marke, that by an acte of parliament made in the xxii. yere of oure souerayne lord king Henry the sixth, it is lawefull for the executoirs and admorsours

encloser.

NOTE  
that in  
this

Four  
causes of  
disseisin  
of rent  
charge.

And two  
of rent  
seck.

One  
of  
ther cau-  
se of dis-  
seisin

And of  
perfor-  
ment.

Execu-  
tours,

houses of tenantes in fee simple, tenants in fee  
simple, tenants for terme of lyfe, of rent services  
rent charge, rent seckes, and of fee fermes, for  
arreages of suche rentes as were due vnto their  
testatours in their lyues, eyther to distrayne for  
the same or at their election to hyngge an action  
of det, except in suche lordshyppe in Wales or in  
the marches therof, where as the tenants haue  
used tyme out of mynde to paye vnto every lord  
at his tyste entreye into the lordeshyp any summe  
of money for the redemption of all maner of dus-  
ties and penalties incurred at anye tyme before  
their lordes entreye.

distresse  
or actiōs  
of det.

¶ Also by force of the said acte the husband whi-  
che was seyled in the ryght of his wife may after  
the death of his wyfe eyther distrayne or hyngge  
an action of det for the arreages of suche rentes  
as were due and vnpayed in her life.

¶ A thewse it is of hym that hath a rente for  
terme of another mannes lyfe, yf he for terme of  
whose lyfe he hath the rente dyeth, yet by vertue  
of the sayd acte he or his executors and admini-  
stratours may, eyther distrayne or hyngge an acti-  
on of dette for the arreages due before the death  
of hym for terme of whose lyfe he had the rente.

¶ Some auowpes ought to be made  
of rentes and seruyce, enacted

An. xxi. Henrici. viii.

**V**here any landes be holden of any pee-  
sonne by rentes, customes, or seruyces,  
yf the lord distrayne vpon the same lan-  
des for anye suche rentes, customes or  
seruyces, and repleyn therof be shewed, the lord

f. iii.

maye

**Seconde  
Deliverance.**

**Damages**

**Plees in  
suowpe.**

make suowpe of his baylyfe of seruaunte make  
make complaunce or iustify the taking upon the  
same landes, as within his fee and seignorie,  
alledgyng in the sayde suowpe complaunce or ius-  
tification the same landes to be holden of hym,  
without naminge any personne certayne to be te-  
nant of the same, and withoute makinge any  
suowpe, iustification, or complaunce upon any  
personne certayne. And lyhwysse upon every  
wytte sued of the seconde deliuerance. And they  
that make any suche suowpe, iustification or  
complaunce, of the same suowpe, complaunce or  
iustification be founde for them, or the plaintife  
be nonsuite or otherwise barred, then they shall  
recouer their hole damages and costes.

¶ Also the said plaintifes and defendantes shall  
haue lyke plees and one ayde prayers (pieces of  
disclaymer onely excepte) as they myghte haue  
had before the makinge of this acte.

¶ Also such persons as by the common law may  
ioyne to the plaintiffe or defendaunt in the sayde  
wyttes of Replegare or seconde deliuerance as  
well withoute processe as by processe shall from  
henceforth, also in this case ioyne vnto the asswe  
without processe as by processe, & haue lyke plees  
and lyke awauntages in althinges. Disclaymer one  
ly except as they might haue by the common law  
before this acte.

**An acte for the assurance of fermours  
made. An. xxxiii. Hen. viii.**

**A** leases hereafter to be made of any lan-  
des or other hereditamentes by lopyngs  
indeted vnder seale for terme of yeres or  
for terme of life by any persons being of  
the

For assurance.

fol. liti

the age of. xxi. yeares hauinge any state of inheri-  
tance either in fee simple or in fee tale in  
theyr owne righte or in the right of their thurs-  
els or wyues, or jointly with their wyues shall  
be good and effectuali agaynst the lessours their  
wyues, heires, and successours accordyng to the  
estate comprysed in such indenture of lease.

¶ Provided that this acte shall neyther extend  
to any leases to bee made of any landes he-  
reditamentes bringe in the handes of any fees-  
mours by vertue of any olde lease onlesse the  
same olde lease bee expired surrendred or ended  
within one yeare after the makinge of the newe  
lease, nor yet to any graunt to be made of the re-  
uerſyon of any landes or hereditamentes, nor to  
any lease of such landes or hereditamentes as  
haue not commonly bene letten to ferme by the  
space of. xx. yeares nexte before such lease therof  
made nor to any lease to be made withoute im-  
peachment of waste, nor to any lease to be made  
aboue the number of. xxi. yeares or the lyues as  
the moſte from the daye of makinge therof. And  
that upon such lease be reserved yearly durynge  
the same, due and payeable to the lessours their  
heires and successours to whom the landes shuld  
haue come after the deathe of the lessours, and  
to whome the reuerſyon therof shall pertayne ac-  
cordyng to their estates and interestes, so muche  
yearly rent or more, as hath bene accustomedly  
payd bynge for the same, within. xx. yeares nexte be-  
fore such leases, and that he to whom the reuerſi-  
on therof shall pertayne after the deathe of such  
lessours or other heires: shall haue such lyke  
remedye and aduantage agaynst the fermours  
therof their executors and assignes, as the  
lessour

Surren-  
der of the  
olde lease.

G.iii.

lessour

The wife  
shall be  
partie to  
the lease.

lessour hym selfe shoulde haue had.

**C** Provyded also that the wyfe bee made partly  
to every such lease as shall be made by her hus-  
bande of anye landes beinge the inheritaunce of  
the wyfe, and that every such lease be made by  
indenture in the name of the husbande and his  
wyfe, and mee to seale therunto. And that the  
rent be reserved to the husbande and wife: to the  
heires of the wyfe accordynge to her state of in-  
heritaunce therein. And that the husbande shal in  
no wyse alyene discharge graunt geue awaye the  
saie rent serued nor any parte thereof longer then  
durynge the couerture, without it be by syne leu-  
ed by the sayd husband and wyfe.

**C** Provyded furthermore that this acte ex-  
tende not to geue lybertye or power to anye per-  
sonnes to take any mo termes leases or taking of  
anye landes or other hereditamentes, then they  
myghte haue done before the makinge of this  
acte, nor yett extende to geue anye lyberty to any  
personne or bycare of anye church or bycarage  
for to make anye lease or graunte of any of their  
messuages, landes, tenementes, tythes, pros-  
pytes, or hereditamentes belongynge to thei  
churches or bycarages otherwyse then they might  
haue done before the making hereof. Anno xxxii.  
Henrici. viii.

What  
graunt  
by a cor-  
poration  
is good.

**C** It is furthermore enacted that the graunte  
lease or gyft or election of the gouernour or rules  
of any hospitall, colledge, deamry or other cor-  
poration with the assente of the more parte of such  
of the same as haue voyce there vnto shall bee  
good and effectuell, anye rule or statute made  
by anye foundoure to the contrary notwithstanding.  
Dyng.

De



**Of falsyfyinge of recoueryes by fermours**  
enacted, Anno. xxi. H. viii.

**A** fermours or lesles for terme of yeres may falsyfye for theyr terme onely recoueryes had by sayned tytles as well as a tenaunte in free holde. And the same fermours theyr executours and assygnes shall enioye theyr sayde termes accordyng to theyr leases agaynste suche recoueryes euen as yf none suche had be suffered. In whyche case neuertheless the recouerer, after suche recouerye had, shall haue lyke remedy agaynst the fermours, by auowrye, or action of dette for rentes and seruyces reserved vppon the same lessees beyng due afore the same recoueryes, and lyke actions for waste done after the same recoueryes, as the lessours myghte haue had yf no suche recouerye hadde be had. Furthermoze no statute staple, statute merchant, nor execution by Elegit shall be auoyded by any suche feyned recouerye, but lyke remedy shall be had to auoyde and falsyfye the sayde recoueryes, as is ordeyned for the fermour or lesse for terme of yeres.

Two wyse  
or action  
of dette,

**Of tythes and howe they shall be**  
recouered, enacted. An. xxxiii.

Henrici. viii.

**A** persons shall truly paye theyr tythes and offrynges accordyng to the lawefull customes and vlags of parishes and places where suche tythes or duties be due. And yf they doe wylfully withholde anye partell of theym: the partye whether hee be ecclesiastical

G. v.

ecclesiastical



### Of tythes.

ecclesiasticall or laye that shoulde haue them, may conuente suche personnes before the ordinary his commissary or other competent minister or iudge of the place where suche wronge shall be done accordyng to the ecclesiasticall lawes. And in euery such cause of suite the same ordinary or iudge hauynge the parties or their procuratour before hym, shall procede to the determination thereof ordinarily or summarily accordyng to the course of the sayd lawes, and theruppon shall geue sentence accordyng.

### Duetye.

¶ And in case any of the parties of any matter concernynge that suite, do appeale from the sentence and dyspnytie iudgemente of the sayde Judge, then the same iudge forthwith upon appellation made, shall adiudge to the other party the reasonable costes of his suite, and shall compell the same party appellaunt to pay the same by compulsory processe sentence of the sayd lawes takynge duetye of the other party to whome suche costes shall be adiudged to restore the same to the appellaunte, yf afterwarde, the pyncipal cause of that suite of appeale shall be adiudged agaynst hym. And so euery iudge ecclesiasticall shall iudge costes to the other party vppon euery appeale to bee made in anye suite or cause of subraction or detencion of any tythes or offerynge or in anye other suite to be made concernynge the duetyes of suche tythes or offerynges. And yf any personnes after suche sentence geuen agaynst them shall obstinately refuse to paye theyr tythes or duetyes or such summes of money so adiudged wherein they bee condemned, then twoo Justices of the peace of the same shyre, wherof one to bee of the Quorum, shall vppon

### Justices of peace.

certifye

certificat of complaynte to theym made in wyte  
 tynge by the iudge that gaue the sentence, cause  
 them to be attached and conuyncted to the nexte  
 Tynke, there to remaine withoute bayle or maynt-  
 nance, tyll they shall haue founde sufficient sur-  
 espyes to be bounde by recognyssaunce or other  
 wyse before the same iustices to the kynges vse  
 for the performaunce of the sayde iudgements.

¶ Provided, that no personne shall be sued or  
 otherwyse compelled to paye anye tythes for any  
 landes tenementes or heredytamentes whiche  
 by the lawes of this realme are dyscharged or  
 not chargeable with y<sup>e</sup> paymēt of any such tythes.

¶ Also this acte shall in no wyse bynde the in-  
 habitantes of London and suburbs of the same  
 to paye their tythes and offerynges wythin the  
 same tythes and suburbs otherwyse then they  
 shoulde haue done before.

¶ Furthermoze yf anye hauynge an inheritance  
 freholde tenure or interest in anye personage vica-  
 rage portion pencione tythes oblations or other  
 ecclesiastycall profyte made or to be made tem-  
 porall or admytted to be in tēporall handes by  
 lawes or statutes of this realme, be disseised or  
 otherwyse put frome the same by any other per-  
 son clamyng to haue interest therein: the persone  
 so disseised or wrongefully put frome his sayde  
 righte or possession his heyres, wyfe, and other  
 to whome suche wronge shall be done, maye haue  
 remedy in the kynges tempozall courtes, as the  
 case shall requyre for the recouery thereof by writ-  
 tes orygyynall of *Præc. qđ reddat*, ass. of nouel dis-  
 seision. *Mortdanc. Quod ei deforciat*, wyttes  
 of doctur or other wyttes orygyynall to be graun-  
 ted in the chawncerye of euerye suche personage,  
 vicarage

Of mortuaries.

bytarge, portion, penyion, or other profytre  
testamentall accordyng to the nature of the suite  
therof. And wyttes of couenaunt & other wyttes  
for synes to be leuyed and al other assurances to  
be made of any such personage or profytre shalbe  
spasiall shalbe deuyled and graunted there, like  
as hath bene vsed for synes to be leuyed and assu-  
rance to be had of landes or other hereditamen-  
tes, and all iudgements geuen vpon such wyttes  
tes originall graunted for any the premisses and  
al synes leuyed and knowleged in any of the kin-  
ges sayde courtes therof, shalbe of lyke force as  
iudgement geuen and synes leuyed of landes tes-  
tamentall and hereditamentes.

Of mortuaries enacted,

An. xxi. D. viii.

**N**O personne spiritual theyr fermours nor  
bayliffes shall call any person before anye  
iudge spirituall for the recouery of anye  
Mortuaries moze then is hereafter men-  
tioned vpon payne to forfeyte for euery tyme soo  
much in value as they shall take aboue the sum  
here limited and oder p. xl. s. to the party grieved  
for whiche he shall haue an action of det by wyrt  
byll or information, wherein no wager of lawe  
esoyne nor protection shalbe allowed. First no  
mortuarpe shall be taken of anye whiche at his  
death hath in mouable goodes vnder the val-  
ue of. i. marke. Also no mortuarpe shalbe tak-  
en but onely where mortuaries haue bene  
vsed to be payed, and there after the forme here  
after mencyned. For in no moo places but  
one that is to wete, there where his most abiding  
is and there but one. For no personne that take  
for

# Of mortuaries.

Fol. 12.

For a mortuarie of any persone beyng at hys  
deathe at the value of ten markes above hys det-  
tes payde and vnder .xxx. li. above .iii. s. iii. d. And  
of the value of .xxx. li. and vnder .xl. not above  
xl. s. viii. d. And of the value of .lx. or above if  
any summe whatsoener it be, not above .x. s.

Also no mortuarie shall be asked nor payde for  
any woman covert: baron, or chyldre of any persō  
not keepinge house, or for any wayfaring man but  
the Mortuaries of such wayfarynge men be  
answerable in that place where they had theyn  
mooste dwellynge at the tyme of their deathe.

Nevertheless such spirituall person may take  
any thynge, whiche shall be disposed or beques-  
thed to him or to the hycht aulter of the church.  
Also nothyng shall be taken for Mortuarie in  
Wales nor the marches of the same, nor in Gas-  
les or Berwiche or the marches of the same,  
but onely in such places of the same where  
Mortuaries haue bene accustomed to be payde  
and there but onely after the fourme above spe-  
cified: Provided that the byshoppes of Wanger,  
Landase, saynt Dauides, and saynte Aske & the  
archedekens of Elyester may take such mortuaries  
of the priestes wythin their dioces and iurisdic-  
tions, as here to fore haue bene accustomed:  
Provided also that in such places where mor-  
tuaries haue bene accustomed to be taken of  
lesse value none shall be compelled to paye anye  
other mortuarie or more for anye Mortuarie  
then hath bene accustomed, nor no Mortuarie  
there shal be demaunded of anye persone exempted  
by this acte vpon payne afore lympted.

Of dyscontinuaunce.

It is

Of descontinuaunce.



**I**t is called a dyscontinuaunce by the lawes of Englande, when he that hath the possession of landes or tenementes for the tyme presente and yet not hauinge the fee simple in him selfe nor in his owne ryghte onely, maketh an alpenation of the same to an other, by reason wherof, he shoulde haue them after hym and whiche then hath ryghte vnto them can not entre, but is dysuen to hys remedye by waie of accyon in suche wyse that the sayde landes be not viterlye spyled and gone frome suche persone or persons as haue ryghte vnto them, but be alonelye dyscontinued for a tyme, tyll the persone whiche after the deathe of suche dyscontinuer hath ryghte vnto them do recontinue and bynyng theyn home agayne not by entre but by sute and waie of accyon. As for example, yf ternaunte in tale of certayne landes doeth enfeoffe an other in the same, in fee simple or fee tale hath yssue and dyeth, hys yssue can not entre into the landes though he hath title and ryghte vnto theyn, but is putte to hys accyon, whiche is called a formedon in the descender. And yf suche ternaunte entale whiche maketh suche a crossment, hath no yssue at tyme of his deathe, it is yet neuertheless a dyscontinuaunce to him whiche is eyther in the reuer syon or in the remainyng so that neither the one nor the other can entre, but he dysuen to their accyon, he in the reuer syon to hys formedon in the reueter, and he in the remainyng to his formedone in the remainder.

Formedon i the  
descender

Formedon i the  
reuerter  
or remainyng

**I**n lyke maner yf a byshoppe doeth alien landes whiche be parcell of his byshoppyche and dieth

**Of dyscontinuance.**

**To. iiii.**

Thys is a dyscontinuance to hys successour for as muche as he can not entre, but ys dyuine to his wytt of entre sine assensu capituli.

**Entre as ne assensu capituli.**

¶ Semblablye, if a Deane be sole leased of landes as in the ryghte of hys Deanery and maketh suche an alienation, this is a dyscontinuance to hys successour. Also yf the mayster of an hospitall alieneth anye landes of his hospitall, this is a dyscontinuance and his successour can not entre, but is put to his wytt. *De ingressu sine assensu confratrum et sororum.*

**ingressu sine assensu confratrum et sororum.**

¶ But yf a persone or vicare of a church wyll alien anye of hys glebe landes to an other in fee simple or fee talle, and dyeth or resigneth hys benefyce, this is no dyscontinuance to his successour, but he maye verye well entre, notwithstandinge such alienation made by his predecessour. And the highest wytt that a person can have if his predecessour hath aliened his glebe lād or lost it by defaulte or reddicions is a *Juris vicium.*

**Juris vicium.**

¶ And furthermore note that no ternaunte if the lande can by hys or their acte discontinue the ryght of hym in the reuerlyon onles it be by a settlement with liuerie and leason or eles by a releas with warraunte.

¶ And note that suche thynge as passeth by waye of graunt by dede wythout liuerie and leason can not be discontinued as auowson common or byllayne ingrosse, reuerlyon, rent charge common for beastes cccien and suche other lyke.

¶ Also yee shall vnderstande, that in the xxii. yere of thys kynges moste noble reygne, it is enacted þ no fine scoffmanēt or other acte to be made or suffered by the husband onely, of any landes or tenementes beinge þ inheryance of fre holde of

**hys**

### Of discontinuance.

his wife duringe the coverture betwene them  
shall be anye dyscontinuance therof or be preiudiciall  
or hurtfull to the sayde wyfe or to her heyres, or to such  
as shall haue ryght tyle or interest to the same by the  
death of such wyfe but that the same wyfe and her  
heires, and such other to whome such ryghts shall  
appertayne after her deceasse maye them lawefully  
entre into all such landes and tenementes  
accordinge to thei ryghtes and tytles therein.

**C**howe recoveries by coluspion agaynst tenants  
for terme of lyfe is no discontinuance enacted, An. xxii. H. viii.



Here dyuerse persons seased of  
landes and hereditamentes, as  
tenautes by the curtesye of Eng-  
lande, or otherwyle onelge for  
terme of lyfe or lyues haue here  
tofore suffred other persones by  
agrement or couyne betwene them had, to re-  
couer the same agaynst thei in the kynges  
courte by reason wherof, they to whome the  
reuerfion or remainder therof hath belonged  
haue after the deathes of such tenautes bene  
driuen to thei actions for the recontynuaunce  
and obtaynyng of the sayde landes and tene-  
mentes so recouered, and sometyme haue bene  
clearly dysherpyed of the same, it is enacted that  
all such recoveries hereafter to be had by agree-  
ment of the partye or by couyn, agaynst anye  
such particular tenaunte of landes or heredi-  
tamentes, wherof he is or hereafter shalbe se-  
sed, as tenaunte by the curtesye of Englande  
or tenant in tyle after possibyltye of issue extynct



or other tyme for terme of lyfe, shall fro henceforth  
as agaynst such persons to whome the reuerſion  
or remaynder shall then appartayne And agaynſte  
theyr heires and ſucceſſours, be clearely voyde.

¶ Prouided that this acte extēde not to any per-  
ſon that ſhall by good tytyle recouer anye here-  
ditamentes withoute fraude or couyn agaynſte  
any ſuch perticuler tenaūt by reaſon of any for-  
mer ryghte or tytyle, nor yet to auoyde any reco-  
uery to be had agaynſte any ſuche perticuler tes-  
naunte by the aſſente & agremente of thoſe in the  
reuerſion or remayndre, ſo that ſuch aſſet & agre-  
ment do appeare of recorde in the kynges court.

¶ Howe wrongfull diſſeiſin is no diſcente in  
the lawe enacted. Anno. xxxij. Henrici.

viii. Capitulo. xxxiii.

**V**Where dyuers perſones haue by ſtrength  
and wythoute tytyle entered into landes  
and tenementes and wrongfully dyſ-  
ſeiſed & dyſpoſſeſſed the rightfull owners &  
poſſeſſours therof, and ſo beynge ſeiſed by dyſ-  
ſeiſen haue therof dyed ſeiſed by reaſon of  
whiche dyſynge ſeiſed, the parties that were ſo diſ-  
ſeiſed and dyſpoſſeſſed or ſuche other perſons as  
before ſuch diſcent myght haue lawefullye en-  
tered into the ſayde landes and tenementes be there  
by clerely excluded of theyr enter into the ſame  
and put theyr accyon for theyr remedie and re-  
couery therein if is enacted, that the dyſynge ſeiſed  
hereafter of any ſuche dyſſeiſour hauynge no  
ryght or tytyle therein, ſhall not be demed anye  
ſuche diſcente in the lawe to take awaye the entrie  
of ſuche perſones or theyr heires whiche at the  
tyme of the ſame diſcent had good tytyle of entrie

¶ i.

into



# Of prescription.

into the same. Except that such disseisor haſte had the peaceable poſſeſſion of his landes or tenementes wherof he ſhall ſo die ſeaſed by the ſpace of fyve yeares nexte after the diſſeiſin by him committed without entre or continual clamour by ſuche as haue lawfull title therunto.

## The limitation of preſcription inſacted. An. xxxii. B. viii.

**N**o perſon ſhall ſue or maintaine any writ of right, or make any title or claime to any landes tenementes, rentes, annuities, commons, penſions, portions, corrodiens or other hereditamentes of the poſſeſſion of his auncetour or predeceſſour and declare any ſuch ther ſeiſin or poſſeſſion of his auncetour or predeceſſour but onely of the ſeiſin or poſſeſſion of his auncetour or predeceſſour, whiche hath bene ſeiſed of the ſame within .xl. yeris nexte before the ſeaſe of the ſame writte, or nexte before the ſayde title or claime ſo to be ſued.

Limitation of .xl. yeris.

Also none ſhall ſue or maintaine any aſſiſe of Mortdanceſſour, conſage, ayte, writ of entry upon diſſeiſin done to any his auncetours or predeceſſours, or any other action poſſeſſarye upon the poſſeſſion of any of his auncetours or predeceſſours, for landes or hereditamentes of further ſeiſin or poſſeſſion of them, but onely his ſeiſin or poſſeſſion whiche was ſeiſed therof within fyve yeares nexte before the ſeiſe of the originall of the ſame writte. And none ſhall maintayne action for landes or other hereditamentes upon his owne ſeiſin or poſſeſſion therein, as howe .xxx. yeris nexte before the ſeaſe of the originall of the ſame writte.

Limitation of .l. yeris.

Limitation of .xxx. yeris.

Item

Item none shall make anye auowrye or  
 conplauce for a rente, sute, or seruyce, and al-  
 ledge any leasein of the same in hys auowrye or co-  
 nplauce in possessyon of hys auncestours or prede-  
 cessours, or in hys owne possessyon, or in the  
 possession of any other whose estate he shal claime  
 to haue aboue fyfthe yeaeres nexte before the  
 makinge of the sayde auowrye or conplauce.  
 Moreover all formedones in reuerter, forme-  
 dones in remainder, And Scire facias vpon fines  
 of landes or other heredytamentes to be sued,  
 shal be taken within fyfthe yeaeres next after the  
 tyle of actiō fallen. And yf anye do sue any of y  
 sayde accions or wrytes for landes or other here-  
 dytamentes or make any auowrye conisauce pre-  
 scription or clayme for anye rente, sulte seruyce  
 or other heredytamentes, and can not proue that  
 he or hys auncestours or predecessours were in  
 actuall possessyon or leasein therin at anye tyme  
 within the yeaeres before lymyted, if the same be  
 trauesed or denyed by the partye plantyfe de-  
 maundant or auowant or by the partye tenant  
 or defendauant, he and hys heires shall from hence  
 forth be utterly barred for ever of euery y<sup>e</sup> laide  
 wrytte, accions, auowryes, conisauce prescrip-  
 tion, tyle, & clayme hereafter to be sued or made  
 for the same landes or other the premysse, for  
 whiche suche accion wryt auowrye, conisauce tyle  
 or clayme hereafter shalbe sued or made.

Wherby, that all persones whiche nowe  
 haue any of the sayde accions, wryttes, auowryes  
 Scire facias, conisauce, prescription tyle, or  
 clayme dependynge, or that hereafter shal seme  
 or bynynge any of the sayde wryttes, or accions,  
 or make any of the sayd auowryes, conisauces,

whether  
state shal  
make et  
feste.

### Of prescription.

prescription, tytle, or clayme at anye tyme be-  
foze the feast of the assencion of our lord which  
shalbe in the yere of oure lord a thousande fyue  
hundredth forty and fyve, shall alledge the season  
of theyr auncestours or predecessours, or theyr  
owne possession and season, & also have all other  
lyke avauntage in the same wyttes, actions,  
suowryes, complaunces, prescriptions, and claymes  
as they myghte have had before the makinge of  
this statute. Wherbynd also, that yf anye persone  
be nowe wythin the age of .xxi. yeres or couerte  
baron, or in pylson, or oute of this realme, nowe  
havyng cause to byngne any of the sayde wytes  
tes or accyons, or to make any suowryes, com-  
plaunces, prescription, or claymes it shalbe lawe-  
ful to suche persone, to sue or byngne anye of the  
sayde accyons, or to make anye of the sayde suow-  
ryes, complaunces, tytes or claymes at any tyme  
wythin fyve yeres nexte after suche pers on nowe  
beyng within age, shall accomplyshe the age of  
.xxi. yeres, or nowe beyng couerte baron, shall  
be sole, or nowe beyng in pylson, shalbe at their  
lybertye, or nowe beyng oute of this realme, shal  
come and be wythin this realme. And that every  
suche persons in theyr sayde actions suowryes  
complaunces tytes or claymes to be made sued  
or commēced within the saide fyve yeres, shal al-  
ledge the season of their auncestours or prede-  
cessours or of their owne possession, or of the  
possession of those whose estate they shall then  
clayme. And also within the same fyve yeres  
shall have lyke avauntage in the same, as they  
myghte have had before the makinge of this acte.  
¶ Wherbynd also, yf of the said persons now be-  
yng wythin age, or couert baron, in pylson or

out of this realme, do dye within age, or beyng couerte, or in pryson or out of this realme or desease, within .vi. yeares next after they shal accomplyshe their full age, or shal be at large within this realme, or shal become sole, and no determination or iudgement had of suche tittle, actions or ryghtes so to theym accrewed, then the nexte heire of suche personnes shal enioye lyke auantage to sue demaunde, auowe, declare or make their sayde tittles, claymes or prescriptions within fyve yeares nexte after the death of suche personnes, as the same infant after his full age, or the sayde woman couerte after the deathe of her husbände, or the same personne beyng oute of this realme after his repaire or comyng into the same, or the sayde personne imprysoned after his enlargemente and comyng oute of pryson, myghte haue had within .vi. yeares then next enluyng by force of the prouysson last befoze reherced.

¶ Prouyded also, that yf anye persons befoze the sayde feast of the Ascension sue anye of the sayde actions or make anye auowye tittle or clayme, and the same happen by the deathe of any the parties therunto, to bee abated befoze iudgement or determination therof had then the sayde persons beyng demaundantes, or auowances, or makynge anye suche conysaunce, prescription, tittle, or clayme beyng then on lyue, and yf not then theyr nexte heires, maye comynce theyr actyon and make theyr auowes, conysaunce or clayme vppon the same matter within one yere next after suche saite abated and shal haue lyke auantage to sue demaunde as wome declare or make theyr sayde tittle claymes

Attaynt  
by on  
tyle  
verdit.

### Of fynes.

or prescriptions within the sayd one yere, as the demaundauntes in suchy wyse or suyte abated, or as suchy as dyd auowe or make conisaunce, tytle clayme or prescription myght haue enioyed in the sayde former action or suyte.

¶ Prouyded furthermore, that if any false verdit hereafter be geuen in any of the sayd actions, suites, auowies, prescriptions, tytles or claimes, then the party greued may haue his attainte vpon euery suchy verdit, and the plaintife in the same attainte vpon iudgement for him geuen shal haue lyke recouery, execution and other aduantage as heretofore hath bene vled.

### Of fynes.



Fynes haue their name, because they make a fynall ende and determination of all suites strifes and debates betwene men. For the due leuyinge whereof it was enacted in the. iiii. yere of kynge Henry the. vii. that they muste be solempnye before the Justyces of the common place, rede and proclaymed the same terme and the termes next folowynge the ingrosment, at whiche tymes all the piers muste seale. And suchy fynes shalbe a sufficiente barre and dyscharge agaynste all personnes, sauyng women that bee couerte baron, if such women be not priuey to the same fyne, or suchy as be within age, in pryson oute of the realme, or out of their ryght myndes. But these fynes shal not conclude ne barre all straungers whiche haue ryght to entre or to haue action, yet they come within. v. yeres after suchy proclamati-  
ong

ons made oꝝ (in case the cause of action falleth vñ to them after the fine so duely leued) if they come and commence their actyon and sute within. v. yeaꝛes next after suche cause of action to them ascerued. And they maye sue agaynste the takers of the profyttes. But yf they that haue ryght thereto bee within age, in pryson, couerte baron, out of the realme oꝝ not in their ryghte memoꝝy, then their cytle oꝝ entre shall be saued vnto them tyll they be of full age, out of pryson, discouered and sole within the realme oꝝ of right minde, and then within fyue yeaꝛes after their action oꝝ entre must be sued oꝝ made with effecte.

¶ Also by the sayde statute it shall be a good plee foꝝ all straungers to saue, that they that were payed to the fyne noꝝ none other to their vse, had any thing in the tenementes oꝝ landes at the tyme of the leuyng of the fyne.

¶ Furthermoꝛe in the. xxii. yeaꝛes of this kyng foꝝ thaduoꝝdyng of certayne doubttes and ambiguities, it was enacted, that all fynes as well heretofore leued, as hereafter to be leued ascordyng to the sayde statute of Henry the. vii. by any person of the full age of. xxi. yeaꝛes, of any landes oꝝ other hereditamentes, beyng before the fyne leued, in any wyse tailed vnto him oꝝ to any of hys auncestours in possession reuersed vpon remainder oꝝ in vse, shalbe immediatly after the same fyne leued ingrossed and proclamacions made a sufficient barre and discharge foꝝ euery as well agaynste hym, and his heires claymyng the same onely by foꝛce of anye suche in sayle as agaynste all other to their vse, so that the same fynes be not leued by anye woman after the deaith of her husband, contrary to the statute

Barre.

### Of fynes,

Anno. xi.  
Hen. vii.

An. iii.  
Hen. vii.

lute made the. xi. yere of Henry the seventh of landes and tenementes of the inheritance or purchase of her huspande or of any of his auncestors given to her in dower, for terme of lyfe, or in taylor use or in possession. Excepted also all fynes leuped or to be leuped of any suche landes or hereditamentes of the owners therof by anye speciall acte of parlyament made sythe the sayde fourth yere of Henry the. vii. be restrained from makinge anye alienations discontinuances or other alterations of the same. Also of such landes as be now in suite and variance in any of the kynges courttes, or wherof anye evidences be now in demaunde in the chauncery, or whiche be all ready recovered. Excepted also fynes leuped or to be leuped by any personne, of landes or tenementes graunted to hym or to his auncestours in taylor eyther by the kynges letters patenttes or by vertue of any acte of parliament, wherof p reuersion is in the kyng. And confirmed in the xxxii. yere of Henry the. vii.

### Of testaments or last wylls.

diuision.

Written  
testament

The testa  
ment nū  
cupatiue.

**T**estamentum in latyn is as much to saye as mentis testacio; that is a declaration or wytnessing of a mannes mynde. And there be two sortes of testaments. The one is called testamentum scriptum, & is a wrytten testamente, or a laste wyll by wryttinge and the other is called testamentum nuncupatiuum a testament nuncupatiue, whiche is when a manne dothe expresse by mouth his laste wyll and testamen without wryttinge, by challenge he fore hym certayne of his neyghbours in whose



presence hee dothe sygnifye by woordes his laste wynde & wyll. And this for most part men bled to do when for feare of condempnes of deathe, they dare not abyde the wytyng of their wyll. And this wyll (onlesse it bee in certayne cases) is as stronge and as sure, as is a testament. or laste wyll put in wytyng and sealed with the scale of the testatour.

¶ Also though a testament by wytyng be not sealed with the scale of the testatour, yet is the testament good and effectuell in the lawe.

¶ And yee shall also marke, that where a man maketh ones his testamente and wyll and afterwarde maketh another wyll by woordes yf his laste wyll be proued before the ordinary & by hym putte in wytyng and insealed with his scale, such laste wyll shall auoyde the fyrst wyll, onlesse it be in speciall cases, and so alway the latter wil and testament shall auoyde the former.

¶ Finally by an acte made the. xxi. yere of king Henric the eyghte, it was ordeyned that where parte of the executors named in the testamente wherin any landes or tenementes be wylled to be solde by them, refuseth to take vpon them the administration, and the resydue do take y charge and administration vppon them, in this case all bargaynes and sales in the sayd landes made onely by those executors that toke the administration of the testament vppon them, shall be as good and effectuell, as yf all the resydue of the executors so refusynge had ioyned in the makinge of the bargayne and sale.

Executors.

¶ The difference betwene executors and administrators.

D. v.

Executors.



The difference betweene,

**E**xecutours is when a manne maketh his testamente and laste will and therein nameth the personne whiche shall execute his testamente, then he that is so named is hys executour, and suche an executour shall have an action agaynst every dettoure of his testatour. And if the executours haue assetes that is to saye sufficient in their handes then shall every one to whom the testatour was in dett haue action agaynst the executour if he haue an obligation or especialty to hewe. But in every case where the testatour mighte waige his lawe, there no action lyeth agaynst the executour.

Assetes  
in h handes  
of  
execu-  
tours.

Admini-  
stratoure

**A**dministratour is he, to whom the ordinary committeth the administration and bestowing of the goodes of a dead man for defaulte of an executour. And actions shall lye agaynst him and for hym as for an executour, and he shall be charged to the value of the goodes of the dead and no further, yf it be not by his falsse plee, or for that he hath wasted the goodes of the deade. But yf the administratours dye his executours bee not administratours, but it becometh the ordinarie to committe a newe administration. Nowebeit yf a straunger I meane hym that is neyther executour named in the testamente and laste will nor yet administratour appoynted by the ordinarie will take the goodes of the dead and mispender of hys owne hed and mynde withoute lawefull auctoritie, this personne shall be charged and sued as an executour, and not as administratour vntill an action whiche is brought agaynst hym by any dettoure. But yf the ordinarie make a letter

Execu-  
tours of  
his owne  
wylonge

ad colligendum bona de fructu, he that hath such a letter is not administratour, but the action lyeth in this case agaynst the ordinarie, as well as if he toke the goodes by his owne hande, or by the hand of any other his seruant by any other commandement.

A letter  
ad colligendum

An acte for probate of testaments made. An. xxi. h. viii.



Nothinge shall be taken by anye haupnge auctoritie to take probacion insynagacion or approbacion of any testament where the goodes of testatour doo not amounte aboue the value of. l. s.

excepte to the scrybe for wytyng thereof. vi. d. And for the commissyon of minystracion of the goodes of any dyinge intestate not beyng lyke wyse aboue. l. s. vi. d. Also none haupnge power to take probate of testaments shall refuse to approue testaments beyng lawfully offered vnto them in wytyng with wate thereto affixed ready to be sealed, so that they be lawfully proued before the same ordinarie to be true. And when the goodes of the testatour do amount aboue an. l. s. and not excede. xl. li. none shall take for the probacion registerynge, sealyng and wytyng of any such testaments aboue. iii. s. vi. d. wherof to be to them that haue auctorite to take the probacion. ii. s. vi. d. and the other. xii. d. to be scrybe for registerynge.

And where the goodes amounte aboue. xl. li. then onely. v. s. to be taken, wherof to be to them that haue auctorite to take the probacion. ii. s. and. vi. d. and the other. ii. s. vi. d. to the scrybe for

### Of testaments,

for the registryng, or els yf he refuse that. ii. s. vi. d. then he to haue for euery. x. lines euery line conteynyng in length. x. ynches. i. d.

**A**nd they that haue auctorite as is aboue sayde, shall approue insynuate seale and register the tenementes and deliuer them sealed with the seale of their offyce to the executours for the sum aboue sayd and that with conuenient speede without any frustratory delaye.

**A**nd yf anye personne dye intestate or the executours refuse to proue the testamente, then they hauinge auctorite as is abouesayde, shall graunt the administration of the goodes to the wydowe of the personne deceased or to the nexte of kynde or to bothe after their discretion, takynge suretye of them for true administration of the goodes and dettes, whiche they shall bee soo auctorysed to mynyster. And where one or dyuers claime the administration as nexte of kynne whiche be equal in degree of kynred, or where any one persō desireth the administration as next of kyn where in dede dyuers personnes be in equaltie of kynred, then in any suche case the ordinarpe shall be at lyberte to take one or mo makynge request. And where dyuers requyre the administration, or where but one or mo of them and not al beynge in lyke degree, make request then the ordinarpe shall admyt the wydowe and hym or theym onely makynge request or any of theym, takynge nothyng for the same where the person diseased died not worth. l. s. And yf he dyed worth. l. s. and not aboue. xl. li. then. ii. s. vi. d. onely to be taken. And the executour or administratoure callynge to hym the dettours two at the leaste or suche persons to whome anye legacys was made

**Summe.**

Of testaments,

and yf they refufe them. ii. next of kynne to y per-  
son betrayed and in theyr defaites. ii. other ho-  
nest perfones that by theyr defcretions make a  
true inuentorie indented of all the goodes,  
whiche perfones fwearinge before the byfhop or  
hys officers to be true, that deliuer the one parte  
therof vnto the, and y other kepe wth him felfe.  
And none hauynge auctoritie to take probate  
of testaments vpon payne contayned in thys  
statute shall refufe to take any fuche inuento-  
rye prefented or tended to them.

Inuentos  
rye of  
goodes

**¶** Prouyded, yf anye perfon shall difpofe or  
will by hys testament any landes or heredita-  
mentes to be folde, that the money or profits  
of the fame be accounted for goodes or cattels.  
And they hauynge the auctoritie aboue fayde  
vpon the deliuey of the feale and figne of the  
testatour shall caufe the fame to be defarted and  
incontinent shall redeliuer it to the executour w-  
out any clayme, and yf anye require a copie of  
the testament and inuentorie then they hauynge  
auctoritie or their minifters, shall wthoute de-  
lay deliuer them a copie takinge therfore and  
for the regestryng of the fame as before or els  
for euery ten lmes. .l. s.

**¶** Prouyded, that where they hauynge aucto-  
ryte as is aboue fayde haue vled to take leffe  
for the probate of testaments or other thynges  
concernynge the fame then is here fpecyfied,  
they shall take as they dyd before thys acte.

**¶** Note if any that haue auctoritie to take  
probate of testaments or their minifters do at-  
tempt agaynft thys acte they shall forfayte for  
euery tyme to the partye greued as muche monye  
as they shall take contrary to thys acte. And ouer  
that

### Of testaments.

that x.ii. the one halfe to the kinge the other to the partye greued, that wyl sue by action of debt byl informatyon or otherwise in anye of y<sup>e</sup> linges courtes, wherin no esoyne protection nor waigre of the lawe shalbe allowed. And euery of them shalbe charged for hym selfe and for none other.

**¶** Prouyded, that euerye one hauinge auctoritie aboue sayde, may call before them euery person named executour, to the intente to proue and refuse the testament and to bringe inuentories and to do euery other thyng concerninge the same, as they myghte before thys acte, so that neyther they nor their ministres shal take aboue the fees limited by thys acte.

**¶** Howe landes and tenementes may be by testament or otherwise disposed inacted. In, cxxii. ff. viii.

**E**uerye person hauinge landes or other hereditamentes holden in socage, or of the nature, and not hauinge anye landes or hereditamentes holden of the hyng by knyghtes seruyces, or socage tenure in chiefe, or of the nature of socage tenure in chiefe, nor yet of any other persone by knyghtes seruyces maye gyue dispose, and deuyle, aswel by testament in wyrtynge as otherwise by any acte lawefully executed in his lyfe, all hys sayde landes or hereditamentes or any of them.

**¶** And euery persone hauing landes or other hereditamentes holden of the hyng in socage or of the nature of socage tenure in chiefe, and hauinge also any other landes or hereditamentes holden of any other persons in socage or of the

the nature of socage tenure, and not hauinge any hereditamēt holden of the kyng or of any other by knyghtes seruyce may from the sayde time gyue and deuyle aswell by testamente in wytyng as otherwys by any acte lawefully executed in his lyfe, all and euerye of them at his pleasure. Sauynge to the kyng all hys righte of prymer leases and relieves and also all other ryghtes and dutyes for tenures in socage or of the nature of socage tenure in chiefe, as heretofore hath bene accustomed, the same to be taken and sued out of the kynges handes by the person to whom anye suche landes shalbe disposed or deuyled in like maner as hath bene vsed by anye heire or heires before the makinge of this statute. And sauynge and reseruyng also fines for alienations of suche landes & hereditamēt holden of the kyng in socage or the nature of socage tenure in chiefe, wherof shalbe anye alteration of fre holde or inheritaunce made by wyll or other wyse as is aforesayde.

Primer  
reason  
relieves

Item all persones hauynge landes or other hereditamentes of estate of inheritaunce holden of the kyng in chiefe by knyghtes seruyce or of the nature of knyghtes seruyce in chiefe maye gyue wyll or assygne two partes of the same in thre partes to be deuyled or els as muche thereof as shall amount to the vcerye value of two partes of the same in thre partes to be deuyled in certayntye and by speciall deuisions as it may be knowen i generaltie for p̄auilement of his wife p̄serment of his childrē & payment of his detts or otherwys at his pleasure. Sauynge to the kyng aswell the wardeshipp and prymer reason of as muche as shal amount to the clere vcerye value of the

the

### Of testaments.

the thirde parte therof withoute diminution but  
 w<sup>th</sup> fraude coueine charge or abyrdgemente ther-  
 of, as also all fynes for alienations of all such  
 landes holden of hym by knyghtes seruyce in  
 chiefe whereof shall be any alteration of free-  
 hold or of inheritance made by wil or otherwise.

¶ And every person holdinge landes or ten-  
 ementes of estate of inheritance holden of the  
 kynge in chiefe by knyghtes seruyce, and other  
 landes holden of hym or of anye other by knygh-  
 tes seruyce or otherwyle maye geue or assygne  
 by hys testament or otherwyle as is aforesayde  
 two partes therof in the partes to be deuyded  
 or els as muche therof as shall extend to the  
 value of two partes or be deuyded in certaynty.  
 Sauynge to the kynge aswell the wardeshyppe  
 and primer sealon of as muche, as to amounts  
 to the perely value of the thirde parte, withoute  
 deminuation. &c. As also for all fynes for aliena-  
 tion as is aboue saide.

Fynes  
 for alie-  
 nations.

¶ Item euery persone holdinge landes or ten-  
 ementes onely of anye other then the kynge by  
 knyghtes seruyce and other landes and teneme-  
 les in socage or of the nature of socage tenure  
 maye geue byspose or assure by testamente or  
 otherwyle two partes therof holden by knyghtes  
 seruyce or as muche as shall amounte to the full  
 perely value of two partes. And also all the landes  
 and tenementes holden by socage or of the na-  
 ture of socage tenure at hys pleasure. Sauynge  
 to the lord of the landes and tenementes hold-  
 den by knyghtes seruyce for hys wardeshyppe as  
 muche therof as shall amount to the perely val-  
 ue of the thirde parte withoute diminution. &c.

¶ And every person holdinge onely of the kynge by







Of marriages. *Statute fol. 101.*

**I**n the year of our lord a thousand four hundred and fourth, all marriages within this church of England contracted between lawfull persones, as by this acte we declare all persons to be lawfull, be not prohibited by gods lawe to marrye. Suche marriages beinge contracted & solemnized in the face of the church and consummate with bodelie knowledge or fruite of children, as shalde hereafter be therein betwene the parties so married shalbe deemed, and taken to be lawfull, good and indevolvable, notwithstanding any precontracte of matrimonye not consummate with bodelie knowledge either of the persons forward or both shall have made with any other before the tyme of contracting that marriage whiche ys solemnized and consummate or wherof suche state is ensued or may ensue as a lawe, and notwithstanding anye dispensacion, prescription, lawe or other thinge granted or confirmed by acte or other wyse. And that no excoication or prohibition (Goddes lawe excepte) shall trouble, impeche anye marriage withoute leuitall degrees. And that, no persone shall after the said first daie of Julye afore saide, be appointed to anye of the spirituall courtos within this the kings realme, or any his other landes & dominions, to any moecesse ples or allegation contrary to this acte.

**Edw. 4.**

**H**ere it may be remembered that the number of this Table folowynge, doeth exposte and shewe the place where you shall fynde your besyde, and thus later I make mention of the first page of fyde, and thus later for the seconde page of fyde, shall be to which both

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Granted by corporations.

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